MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

1467

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1467

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1467

House Government and Veterans Affairs Committee

❑ Conference Committee

Hearing Date 2/10/05

Tape Number	Side A	Side B	Meter #
2	x		25.5-end
3	x		0-7.0
Committee Clerk Signature			

Minutes: Relating to respiratory therapist temporary licenses.

12 members present, 2 absent.

Chairman Haas: We will open the hearing on HB 1467.

Rep. Tracy Boe-District 9-For-2001 legislature we changed the law to not allow for temporary licensing for students of respiratory therapists. The idea behind this was to tighten up the laws a little on how to regulate the students and got to be to tight. We have run into an issue with billing. When these students are working for there license and practicing on the floor in the hospital, the hospital is not allowed to bill without a temporary license. The new amendments you have in front of you and we worked with the legislative council drawing up these amendments.

Chairman Haas: Those respiratory therapists are working as interns?

Rep. Boe: Yes.

Rep. Klemin: Is this relating to a billing issue?

Rep. Boe: It relates to the billing of the services of the student.

Rep. Klemin: So the reason we are doing this is so the hospital can bill for the services of the student.

Senator Dennis Bercier-District 9-For-We are looking for people in rural areas and looking to keep them, on that basis I am supporting all the medical people who are bringing this forward.

Will Beachey-Board of Directors of North Dakota Society for Respiratory Care-For-Testimony Attached

Rep. Klemin: I would like to ask about the billing issue. What is happening on the billing side of this?

Will: I am not exactly clear on what that issue is. I know the respiratory therapist must be licensed.

Rep. Potter: With this five year, four year amendment, something oked by some group?

Will: If this leave of absence is granted by an accredited school.

Kimber Wraalstad-President/CEO of Presentation Medical Center in Rolla-For-Attached Testimony

Rep. Klemin: The training program is sometimes actual educational facilities setting and sometimes its through a correspondence program.

Kimber: That is correct.

Rep. Klemin: Do the students then have to pay tuition, so students having to pay tuition to St. Alexius.

Kimber: No, they pay it to the schools.

Rep. Klemin: So you pay a wage to the students and the other places do they do the same thing.

Kimber: Yes, we pay the student and I can't tell you what the other facilities do.

Rep. Klemin: What you want to do is be able to bill to Medicaid or another third party.

Kimber: We have to be to bill, they are using supplies, someone has to sign off on the treatment, there is the documentation that has to done, if you want the people in the rural area to keep our respiratory therapists, we need help to be able to do this.

Rep. Klemin: So when you pay the student, the whole point behind this is, so you can get around this requirement that you have to be licensed in order to bill for what the student does.

Kimber: Yes. When we have these students we can not bill for this service.

Rep. Galvin: Under what circumstances can billed for the students, if they are under the direct supervision of the licensed therapist, can you build under the old legislation or under new legislation?

Kimber: Right now they can not bill for the procedure.

Rep. Sandvig: What happens to other types of therapists?

Kimber: We find that might be an issue also.

Rep. Sandvig: It was kind of a safety concern, who is going to be supervising these therapists?

Kimber: The physician assistant, registered nurse, or a respiratory therapist.

Rod St. Aubyn-Blue Cross Blue Shield-Neutral-I will check with our staff and see if they see problems, as it applies to our reimbursement system and get back to you.

Chairman Haas: Is it safe to say that the amendment meets the requirements of Blue Cross and Blue Shield and it would likely meet the requirements of Medicaid and Medi Care?

Rod: I believe for the most part, for Medi Care, I don't know about Medicaid.

Rep. Kasper: The original bill was Blue Cross supporting or against?

Rod: I don't know, this really snuck up.

Rep. Klemin: Do you know why this was taken out of the law in 2001?

Rod: I do not.

Rep. Klemin: After that happened and some of the hospitals didn't know that happened and continued to bill for it. Did Blue Cross start denying some of those bills?

Rod: Again, I really apologize I really don't know. I will get the responses back to you.

Chairman Haas: I think that the hospitals are very, very careful about how they do there billing, to make sure all the rules apply to Medicare, there are some pretty serious penalties if you do something wrong and particularly if you do something illegal.

Rep. Klemin: It sounds like temporary licenses are going to be expanded to other types of students, why not student doctors or student nurses.

Karla Smith-Registered Respiratory Therapist-North Dakota-Board of Directors for North Dakota for Respiratory Care-For

Chairman Haas: Thank you very much. Any more questions on HB 1467.

Rep. Meier: I move a DO PASS AS AMENDED on HB 1467.

Rep. Potter: I second the motion.

VOTE: YES 11 NO 1 ABSENT 2 DO PASS AS AMENDED

REP. SITTE WILL CARRY THE BILL

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1467

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/10/05

Tape Number	Side A	Side B	Meter #
6	x		9.1-42.5
Committee Clerk Signature			

Minutes: Relating to respiratory therapist temporary licenses.

Discussion on HB 1467

Chairman Haas: Rod St. Aubin a letter, he was going to check and see if the provision of that amendment that we had fit with Blue Cross Blue Shields policies and that letter is coming around right now. Rep. Boe is there anything that you would like to explain on the hog house. Does any member of the committee have any questions for Rep. Boe? Thank you for being here, that will help.

Rep. Kasper: If we go with Legislative Council, do we throw this one out.

Chairman Haas: Yes, that is right. The one we are looking at is 50455.0202.

Rep. Sitte: I move that we add an emergency clause to it.

Chairman Haas: Rep. Sitte moves that we add the emergency clause, is there a second, seconded by Rep. Meier. Is there any discussion.

Rep. Klemin: No other students can direct bill for services unless they are licensed and they are allowed to direct bill for there services. We are not aware of any other licensed student, medical, professionals other then possibly physicians in residency programs, so this is kind of a departure from everything else.

Rep. Kasper: I think we can answer Rep. Klemins concerns, because the hospitals bill under the DRG system, so it is all one bill lumped together. In that bill there is no delineation for a student to bill anything. The students are all under the supervision of licensed folks, so they are just helping along, this bill just allows them to be licensed, so there work counts towards the DRG billing.

Chairman Haas: Right and the respiratory therapy might be one component of that particular DRG.

Rep. Klemin: It wouldn't increase the amount under the DRG would it, so what does it do.

Chairman Haas: No, I think in the minds of the hospitals, particularly in the rural areas that are providing these services it legitimizes the service and the claim it made to Medicare and Medicaid.

Rep. Boe: For the billing process, when that comes into play is for critical access hospitals. We need to have the license ability for these students in order to them to do there billing. Through Medicare and Medicaid.

Chairman Haas: Anymore questions for Rep. Boe, thank Rep. Boe.

Rod: The difference most hospitals, they do have special classifications for these facilities that are called critical access hospitals, mostly in the smaller communities, they are limited by time. In those particular cases because they have higher fixed costs overall, because they don't have the

volume. They are allowed to actually bill those charges, instead of the DRG. That is the difference.

Chairman Haas: The difference is how they split the services out on the billing, rather to specific services. We will take the amendment that Rep. Sitte made on a voice vote. All in favor of the amendment to put the emergency clause on please signify by saying I, opposed say no. Amendment carried. Rep. Meier.

Rep. Meier: I move a DO PASS as AMENDED.

Rep. Potter: I second the motion.

Chairman Haas: Rep. Meier moves a DO PASS as AMENDED and second by Rep. Potter. Is there any discussion. We will ask the clerk to take the roll.

VOTE: YES 11 NO 1 ABSENT 2 DO PASS AS AMENDED

REP. SITTE WILL CARRY THE BILL.

We are going to adjoun.

50455.0202
Title.

Prepared by the Legislative Council staff for
Representative Boe
February 10, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1467

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 43-42-01, two new subsections to section 43-42-03, and a new section to chapter 43-42 of the North Dakota Century Code, relating to temporary licenses for respiratory therapy students.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 43-42-01 of the North Dakota Century Code is created and enacted as follows:

"Student respiratory therapist" means a student currently enrolled in a board-approved respiratory therapy educational program that is accredited and in good standing with the commission on accreditation of allied health education programs, or its successor organization, who holds a temporary license under section 43-42-03.

SECTION 2. Two new subsections to section 43-42-03 of the North Dakota Century Code are created and enacted as follows:

Notwithstanding subsection 3, the board shall issue a temporary license for an applicant to practice as a student respiratory therapist if the applicant:

a. Is a student currently enrolled in a board-approved respiratory therapy educational program, accredited and in good standing with the commission on accreditation of allied health education programs, or its successor organization.

b. Complies with board-established application instructions and requirements.

c. Pays the application, initial issuance, and renewal fees for a temporary license.

The board shall renew a temporary license issued to a student respiratory therapist if the health care institution and the student annually supply evidence to the board of satisfactory and timely progress toward graduation. A temporary student respiratory therapist license may be renewed annually for a maximum of four years. On a case-by-case basis, the board may renew a license beyond the four-year limit upon a showing of good cause.

SECTION 3. A new section to chapter 43-42 of the North Dakota Century Code is created and enacted as follows:

Student respiratory therapists.

1. A student respiratory therapist may only perform procedures that have been part of courses the student has successfully completed in the accredited program in which the student is enrolled and for which the student's employing health care institution has verified and documented competency.

2. A student respiratory therapist may only perform respiratory therapy procedures under the proximate supervision or direction of a physician, certified or registered respiratory therapist, registered nurse, physicians assistant, or nurse practitioner who is physically close enough to be readily available if needed by the supervised student.

3. A student respiratory therapist must be identified to the public as a student respiratory therapist while working in a health care institution.

4. Upon graduation, a student respiratory therapist is subject to subsection 2 of section 43-42-05 regarding application for a permanent license."

Renumber accordingly

Adopted by the Government and Veterans Affairs Committee
February 10, 2005

House Amendments to HB 1467 - Government and Veterans Affairs Committee 02/11/2005

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 43-42-01, two new subsections to section 43-42-03, and a new section to chapter 43-42 of the North Dakota Century Code, relating to temporary licenses for respiratory therapy students; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 43-42-01 of the North Dakota Century Code is created and enacted as follows:

"Student respiratory therapist" means a student currently enrolled in a board-approved respiratory therapy educational program that is accredited and in good standing with the commission on accreditation of allied health education programs, or its successor organization, who holds a temporary license under section 43-42-03.

SECTION 2. Two new subsections to section 43-42-03 of the North Dakota Century Code are created and enacted as follows:

Notwithstanding subsection 3, the board shall issue a temporary license for an applicant to practice as a student respiratory therapist if the applicant:

a. Is a student currently enrolled in a board-approved respiratory therapy educational program, accredited and in good standing with the commission on accreditation of allied health education programs, or its successor organization.

b. Complies with board-established application instructions and requirements.

c. Pays the application, initial issuance, and renewal fees for a temporary license.

The board shall renew a temporary license issued to a student respiratory therapist if the health care institution and the student annually supply evidence to the board of satisfactory and timely progress toward graduation. A temporary student respiratory therapist license may be renewed annually for a maximum of four years. On a case-by-case basis, the board may renew a license beyond the four-year limit upon a showing of good cause.

SECTION 3. A new section to chapter 43-42 of the North Dakota Century Code is created and enacted as follows:

Student respiratory therapists.

1. A student respiratory therapist may only perform procedures that have been part of courses the student has successfully completed in the accredited program in which the student is enrolled and for which the student's employing health care institution has verified and documented competency.

2. A student respiratory therapist may only perform respiratory therapy procedures under the proximate supervision or direction of a physician, certified or registered respiratory therapist, registered nurse, physicians assistant, or nurse practitioner who is physically close enough to be readily available if needed by the supervised student.

3. A student respiratory therapist must be identified to the public as a student respiratory therapist while working in a health care institution.

4. Upon graduation, a student respiratory therapist is subject to subsection 2 of section 43-42-05 regarding application for a permanent license.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 2/10/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1467

House House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50455.0203

Action Taken Do Pass As Amended

Motion Made By Rep. Meier Seconded By Rep. Potter

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas	✓		Rep. Bill Amerman	AB	
Bette B. Grande - Vice Chairman	✓		Rep. Kari Conrad	✓	
Rep. Randy Boehning	✓		Rep. Louise Potter	✓	
Rep. Glen Froseth	✓		Rep. Sally M. Sandvig		✓
Rep. Pat Galvin	AB				
Rep. Stacey Horter	✓				
Rep. Jim Kasper	✓				
Rep. Lawrence R. Klemin	✓				
Rep. Lisa Meier	✓				
Rep. Margaret Sitte	✓				

Total (Yes) 11 No 1

Absent 2

Floor Assignment Rep. Sitte

If the vote is on an amendment, briefly indicate intent:

Rep. Sitte -
Rep Meier -
Motion carried

REPORT OF STANDING COMMITTEE

HB 1467: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). HB 1467 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 43-42-01, two new subsections to section 43-42-03, and a new section to chapter 43-42 of the North Dakota Century Code, relating to temporary licenses for respiratory therapy students; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 43-42-01 of the North Dakota Century Code is created and enacted as follows:

"Student respiratory therapist" means a student currently enrolled in a board-approved respiratory therapy educational program that is accredited and in good standing with the commission on accreditation of allied health education programs, or its successor organization, who holds a temporary license under section 43-42-03.

SECTION 2. Two new subsections to section 43-42-03 of the North Dakota Century Code are created and enacted as follows:

Notwithstanding subsection 3, the board shall issue a temporary license for an applicant to practice as a student respiratory therapist if the applicant:

a. Is a student currently enrolled in a board-approved respiratory therapy educational program, accredited and in good standing with the commission on accreditation of allied health education programs, or its successor organization.

b. Complies with board-established application instructions and requirements.

c. Pays the application, initial issuance, and renewal fees for a temporary license.

The board shall renew a temporary license issued to a student respiratory therapist if the health care institution and the student annually supply evidence to the board of satisfactory and timely progress toward graduation. A temporary student respiratory therapist license may be renewed annually for a maximum of four years. On a case-by-case basis, the board may renew a license beyond the four-year limit upon a showing of good cause.

SECTION 3. A new section to chapter 43-42 of the North Dakota Century Code is created and enacted as follows:

Student respiratory therapists.

1. A student respiratory therapist may only perform procedures that have been part of courses the student has successfully completed in the accredited program in which the student is enrolled and for which the

student's employing health care institution has verified and documented competency.

2. A student respiratory therapist may only perform respiratory therapy procedures under the proximate supervision or direction of a physician, certified or registered respiratory therapist, registered nurse, physicians assistant, or nurse practitioner who is physically close enough to be readily available if needed by the supervised student.

3. A student respiratory therapist must be identified to the public as a student respiratory therapist while working in a health care institution.

4. Upon graduation, a student respiratory therapist is subject to subsection 2 of section 43-42-05 regarding application for a permanent license.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2005 SENATE HUMAN SERVICES

HB 1467

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1467

Senate Human Services Committee

☐ Conference Committee

Hearing Date March 9, 2005

Tape Number	Side A	Side B	Meter #
1	X		1-END
1		X	1-1940
Committee Clerk Signature			

Minutes:

Chairman Lee opened the hearing on HB 1467, relating to temporary licenses for respiratory therapy students. All Senators were present.

Representative Tracy Boe introduced the bill. This addresses problems with student licensure for respiratory therapy, with students that want to take correspondence courses. There are safeguards put in place after hoghousing the first bill.

Arnold Thomas, President of the North Dakota Healthcare Association appeared before the committee in support of the bill. The bill is here to allow institutions to explore alternative ways to train manpower to meet respiratory therapists needs. There is nothing in this legislation referencing payment, its about training authorization to permit different ways of training people to participate in the program.

Senator Dever- I don't see anywhere in the bill that it talks about minimal experiences.

Arnold- The students here today can do the best job answering that question.

Kimber Wraalstad, President & CEO of Presentation Medical Center in Rolla appeared in support of the bill. See written testimony.

Chairman Lee- So, if you can't file for reimbursement if there isn't a licensed individual providing care, this is a reimbursement bill.

Kimber- It is and it isn't. We have modified language that will allow us to continue conversation about the reimbursement issue.

Senator Dever- Please address the questions concerning minimal experience in receiving a temporary license?

Kimber- A student respiratory therapist has successfully completed an accreditation program in which the health care institution has verified and documented competently.

Senator Dever- Is the health care institution itself the licensing agent?

Kimber- No. We want to change the language from temporary to provisional.

Senator Lyson- Are other hospitals here today to testify?

Kimber- Yes, there are some here today, not sure if they will testify. This is not just a Presentation Medical Center issue, it could potentially affect other hospitals.

Chairman Lee- I would not be comfortable with the requirements that someone has completed half way through the program, is capable on doing the analytical work involved.

Kimber- That was never the issue before. We have the appropriate training in place to ensure high quality standards, our students prove their competency in this field. In 2002, we received a recommendation by a consulting firm to completely eliminate the respiratory department and just have the nurses do the work. It was important to us to have respiratory therapy staff on hand to meet our patients needs.

Senator Warner- Is the respiratory therapist program a graduate degree? Is a RN with a 4 year degree less qualified?

Kimber- Its an associate degree program. No, a RN is not less qualified. A respiratory therapist focuses specifically in that area, while nurses cover various tasks.

Senator Dever- Aside from reimbursement, would passing this bill change the way the program functions?

Kimber- It would allow us to continue the program. If the bill doesn't pass, our program would be discontinued, and recruiting for respiratory therapy will be even more difficult.

Chairman Lee- Do you need to have something done, in order to have the students continuing the work? Would it only function if you also get reimbursed?

Kimber- We want to continue with the program that we currently have, and want the bill to move forward.

Kathleen Langan, Director of Respiratory Care at Presentation Medical Center in Rolla appeared in support of the bill. See written testimony and supporting documents.

Senator Dever- It says in sub-section 2 of Section 3 that a student respiratory therapist under appropriate supervision. Does the supervisor have training in respiratory therapy?

Kathleen- No, but they each some training in that area.

Senator Dever- If there was licensure, when did reimbursement become an issue? Did they discontinue reimbursement at some point?

Kathleen- We had a meeting with a state board about this issue. Things changed from when I went to school for this in 1989. If this bill passes, Chris Albertson, a respiratory therapy student will be able to finish the program and provide care to our patients.

Chairman Lee- We are sympathetic to Mr. Albertson's situation, but want the best quality care possible for patients across the state. The state has a big liability if we authorize service to be provided that are not being done by someone with the right qualifications.

Senator Lyson- This has went on for 17 years at the Rolla Hospital, have any problems arisen because of it?

Kathleen- None that I am aware of.

Chairman Lee- The Attorney General's office was made aware of the situation at the hospital, (see attached statement) but the board was not made aware of the lack of direct supervision. It seems that there was a general misunderstanding on what the law allowed.

Kathleen- Up until a few months ago, other hospitals have allowed students to practice without direct supervision.

Christopher Albertson, a respiratory therapy care student at Presentation Medical Center appeared in support of the legislation. See written testimony.

Chairman Lee- When you do the work as a student, you always have a certified respiratory therapist supervising your work?

Chris- Not all the time, but there is always a RN in the building.

Senator Dever- How much would the clinical experience you have be part of the education if you would have went the traditional route?

Chris- I have 3 years of supervision with my work.

Charles Ranum, a respiratory therapist at St. Aloisius Medical Center in Harvey appeared before the committee in support of the bill. He has worked in the respiratory care for over 25 years. He is the only respiratory therapist at his hospital, difficult to recruit from anywhere in the

U.S. Without having an option of training local personnel for respiratory therapy, it would become even more difficult. Their hospital got the same advice about eliminating the respiratory department to cut down costs.

Chairman Lee- The legislature has supported those types of training programs in the past, with distance learning. Our concern is how we are handling the services that are provided.

Charles- My concern is that local personnel will have a mechanism for entry into the field, so that our small hospitals that are already struggling with a variety of issues, will not be deprived of the services completely.

Dr. Will Beachy, Board of Directors for North Dakota Society for Respiratory Care appeared in opposition to the bill. See written testimony.

Chairman Lee- Do colleges providing services through the distance learning project have to be approved by the state board?

Will- All state licensing acts require that the person is a graduate of a CORE approved program.

Chairman Lee- So, Mr. Albertson could continue to work as long as he is under the supervision of another respiratory therapist?

Will- Yes, as long as he is functioning in the role of a student. Students must not be substituted for staff, programs are put on probation if they violate that kind of standard.

Chairman Lee- If there is a RN supervising in a small hospital, is that appropriate supervising? A RT can't be there 24/7/

Will- The CORE standards would not permit that. The appropriate credential has to be there, meaning at RT needs to be there to supervise.

Senator Lyson- Do you know of any place in the state that has problems with the trainees? Since it is a small hospital, they can't be accredited unless they have a respiratory therapist there 24/7?

Will- No, they can run a distance education program has long as there is supervision for that student. However, in order to be accredited, they need proximate supervision by a RT.

Senator Lyson- When you don't have the manpower in a hospital, and something needs to be done, do you just wait until the certified person arrives?

Will- It is up to the hospital, patient safety takes priority.

Mike Runge, Director of Respiratory Therapy at St. Alexius Medical Center appeared in opposition to the bill. He made reference to a statement by the Department of Health and Human Services, see attached.

Chairman Lee- I understand about direct billing, could you please explain further?

Mike- That section identifies criteria and programs by the provider. There is a formula that can be put into accounting for this. They do not recognize a student if they have a temporary license, they are not reimbursable.

Senator Brown- In Blue Cross, do you bill separately for respiratory therapy?

Mike- When we perform therapy on the patient a charge is generated, and that goes to the patient's bill.

Senator Brown- So, you've never been denied payment for using students?

Mike- Our students are overseen by a supervisor all the time. We have never been denied payment.

Senator Lyson- So, Medicare and Medicaid won't pay on this?

Mike- Correct.

Rod St. Aubyn of Blue Cross Blue Shield- There is a difference between critical access hospitals and other hospitals in how they handle this with reimbursement.

Senator Lyson- Why are you opposed to this bill, Mike?

Mike- The bill is not necessary. I am supportive of the distance learning training programs, but opposed to the part on students practicing as an employee.

Claude Dockter, a certified respiratory therapist, appeared in opposition to the bill. See written testimony.

Senator Lyson- In the last 20 years, have you seen anything that would put patients at risk, in this area?

Claude- No. This bill would allow a student with limited experience to provide respiratory care services to a patient. The student doesn't understand the long term implications.

Senator Lyson- So, the hospitals in Bismarck have someone with the student at all times?

Claude- Yes.

Senator Lyson- The University of Mary has a good program for RT care, lets give the students a chance.

Chairman Lee- The universities all have good programs for RT care. The question is should we be permitting students to do activities on the floor as a regular employee? This bill would allow small hospitals to continue respiratory care services, and the questions is can a student provide the respiratory services in absence of a certified RT?

Richard Heinz, a junior at the Respiratory Care program at the University of Mary appeared in opposition to the bill. He is not in favor of a student license, he is not confident that

he could practice under a license at this point. This bill would affect all of us in respiratory care, we could be put in a situation that we might not be comfortable with. When budgets get tight, decisions are sometimes made that are borderline ethical.

Chairman Lee- Please explain the in-house respiratory care program?

Richard- Our first 2 years are completely educational at the university. The last 2 years are at the hospital, we learn how to work with equipment and observe the respiratory therapists. Towards the end, we perform procedures with our supervisors. When we graduate, we are ready to practice on our own without the aid of another respiratory therapist.

David Sherwin appeared before the committee in opposition to the bill. He is in need or respiratory care for a sleep disorder. We need to keep in mind what is best for the patient, the best quality care should be a priority.

Dawn Rust, an instructor in Respiratory Care at Merit Care in Fargo appeared before the committee in opposition to the bill. Students are accepted upon merits of their GPA and their interview. They work under the instruction of a therapist, and don't make decisions on their own. Giving a student a temporary license, leaves the door open for faulty patient care.

Chairman Lee closed the hearing on HB 1467. No action was taken.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1467

Senate Human Services Committee

❑ Conference Committee

Hearing Date March 14, 2005

Tape Number	Side A	Side B	Meter #
1	x		2925-5100
Committee Clerk Signature			

Minutes:

Chairman Lee reopened discussion on HB 1467. All members were present.

Chairman Lee: Did everyone get the e-mail from Christopher Albertson? And you got the letter from the Attorney General's office saying that the State Board of Respiratory care was not taking action against MedCenter One or sleep techs employed by them pending submission of a bill that would regulate sleep tech under state law? It's tied in with both of these bills. I visited with Sandy Tabor this morning, because I sent a message to Wayne Stenehgem saying 'isn't there anyway we could do some kind of joint powers agreement with other states where we've got these little groups of professionals that's is hard for us to have a board because there aren't enough of the professionals to support the board, maybe there's some sort of joint powers agreement that some of these states would look at doing--is that something we can explore? What she and I were batting around is that more than one person testified that within two years there will be some agreement reached because the two national organizations are trying to figure

out what they're going to do. Perhaps we can look at registering in the health department. If there was a complaint against a sleep tech the board of respiratory therapy would be brought in to help deal with the infraction. That might be a stopgap measure.

Sen. Lyson: I don't like the idea of just a license for trainees. Maybe we could do something with a provisional license. According to his e-mail, he doesn't do a lot of these things in training, it's after he's done that training. The other problem is, had we had any problems? It's been going on for years and we haven't had any problems.

Chairman Lee: That's pig luck. You cannot have people that aren't licensed.

Sen. Lyson: I'm not sure that it's pig luck, I think it's good management.

Chairman Lee: The academic background is extremely important, the clinical is important too. I did all the regular stuff a med tech does but never without a med tech on site. If I had a question about how that blood sugar came out, there was somebody to ask the question to. And if you're the one whose blood sugar is being done, you darn well deserve to make sure that I didn't make some error in doing that test, because it could have a life threatening impact.

Sen. Lyson: I understand that, but I think that what they said was that the supervisor can't always be there. There is an RN there when their supervisor isn't. But these people don't want an RN supervisor.

Chairman Lee: That's a national requirement for the national certification exam.

Vice Chairman Dever: RNs are designated in the bill as being qualified to supervise.

Sen. Lyson: But they were opposed to that, the one's that were here. So I suppose they would be opposed to have a physician supervise them too.

Chairman Lee: This guy from Rolla can still complete his clinical training, he just can't be an employee.

Vice Chairman Dever: The hospital can't be reimbursed for his services, because he doesn't have a license. Doesn't that mean that the insurance company looks to that license as some level of expertise?

Chairman Lee: Right.

Sen. Lyson: But it didn't say the insurance doesn't do it, it just said Medicaid and Medicare don't. Rod St. Aubyn said insurance reimburses.

Chairman Lee: They don't reimburse students.

Sen. Lyson: He said that's what they do because of.....

Chairman Lee: I didn't hear him say that.

Sen. Lyson: I certainly did hear him.

Chairman Lee: You heard Rod St. Aubyn say that Blue Cross Blue Shield reimburses students?

Sen. Lyson: Absolutely

Sen. Brown: I don't think that that's quite the way it goes. I think what they do. I don't think Blue Cross reimburses any respiratory therapists. They reimburse the *hospital* for services rendered.

Chairman Lee: Right.

Sen. Lyson: I'll agree with that.

Sen. Brown: And I don't know if the Rolla hospital is asking Blue Cross for reimbursement for an unlicensed therapist.

Sen. Lyson: They're asking reimbursement for services rendered. So, I'll go back to the student who cleaned out my brother's breathing tube without any supervisor present, the hospital won't charge that the student did it, but will just charge that it was done.

Sen. Brown: To further complicate that charge, Blue Cross, generally when someone's in the hospital, pays on the basis on ERGs and the hospital accepts that payment for services rendered.

Sen. Lyson: The other thing that bothers me about this bill, is that it went in in 2001 but the board didn't do anything about it so they licensed him and then three-fourths of the way through his program.....

Vice Chairman Dever: A little nervous about the standards of the board?

Chairman Lee: I got a message from Dr. Beachy, who was on the board, and it said 'all the Rolla hospital wants to do is educate respiratory therapists by the California College distance program and try to keep local people at home, as they testified, they don't need 1467 because they can do this under current law (read the law). The only possible reason for the license from Rolla hospital's perspective is that they want to treat the student as a regular staff employee and they want to do it legally. It that case, they will cause California College accreditation problems. California College is on probation with the association of respiratory therapists precisely for its inability to control clinical instruction at myriad sites and its inability to ensure that such experiences are educational, I didn't want to muddy the waters with this active testimony. In no case, can they bill for student-performed services as the CMS letter stated.' And that was recent information that Medicare and Medicaid doesn't reimburse for student services, which is a big part of the Rolla population.

Sen. Lyson: I think they're putting the thing on for payment. So let's say 'take the payment out of there.

Chairman Lee: It's not for billing, it's for paying this guy RT salaries.

Sen. Lyson: Well is it for billing, because that's what he's talking about.

Chairman Lee: But they can't bill.

Sen. Lyson: That's what I'm saying, so we say you can't bill.

Vice Chairman Dever: Are you saying that they can't bill even if he gets the license.

Chairman Lee: In no case can they bill for student performed services and collect through Medicare or Medicaid. That CMS letter we have says they can't bill for student provided services. So the only reason for the license, from the Rolla hospital's perspective, is that they want to treat the students as regular staff employee and they want to do it legally. Then they do end up creating a problem for their own students because it messes around with this California College clinical accreditation.

Sen. Lyson: So he's saying that the hospital in Rolla can give him a monthly salary to perform duties in the hospital, but not respiratory therapy. That's like saying the fox in the hen house should tie his one leg down

Sen. Brown: They're paying him today, are they doing that illegally?

Chairman Lee: Yes. Because he isn't licensed. I admit it's a screwy thing for this guy because he started out because of this felonious situation getting this temporary license and then he had to return the license. So he's the guy caught holding the bag and hopefully it won't happen to any other person because they won't do this again. But in the meantime, while trying to be nice to this guy, but now do we assure services to people in the Rolla hospital.

Sen. Lyson: He graduates in August.

Vice Chairman Dever: If the emergency clause fails, then his graduation will coincide with the effective date.

Sen. Brown: But they pulled his license, so they're probably in trouble right now.

Sen. Lyson: They just have to change their way of paying him, like an orderly or something.

Sen. Brown: Nursing programs--the students who do their clinicals at Medcenter One are never paid. But the Medcenter One foundation does help those students.

Chairman Lee: As a med tech we were never paid. There isn't anybody who gets full paid when they're not licensed as far as I know.

Sen. Brown: I don't see a compelling reason to pass this bill.

Chairman Lee: What would you like to do with this bill?

Vice Chairman Dever: I thought it was ironic that we heard this bill to allow students to do respiratory therapy right before the bill to allow sleep therapists to do respiratory therapy. They at least have some medical background.

Sen. Lyson: So does this guy. He went through some training and didn't do anything until he got into the school. He was there working and learning and training and not doing anything, just watching.

Senator Lyson moved DO PASS on the bill. There was no second so the motion failed for lack of a second.

Senator Brown moved DO NOT PASS, seconded by Senator Brown.

Vice Chairman Dever: I think that if you put a license on the wall, it ought to mean something.

Sen. Brown: That's the purpose of my motion also, the student license thing...I just can't get beyond it.

Sen. Lyson: I think that if we DO NOT PASS this bill we're going to have all kinds of small hospitals out there without respiratory therapists and we're going to close hospitals all over the state.

Vice Chairman Dever: If the bill was to spell out what students were allowed to do in RT area, I suspect that it would probably not include a license.

Sen. Lyson: I suggested that maybe it should be a provisional license, as a student to do something like this. I think we're creating a huge problem for rural hospitals and they're really getting stuck in a corner.

Sen. Warner: Garrison hospital is opposed to the bill.

Sen. Brown: Chip (Thomas) told me that the only hospital that this really effects is the Rolla hospital.

Chairman Lee: Others seem to be dealing with it. This case was an unusual situation for this young man, but if he's going to be done in August, it's not too long a wait and they can figure out something to do between now and then.

VOTE: 4 yeas, 1 nay, 0 absent Motion passed. Carrier: Senator Judy Lee

Date: 3-14-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1467

Senate **Human Services** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Lyson Seconded By _____

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman			Sen. John Warner		
Sen. Dick Dever - Vice Chairman					
Sen. Richard Brown					
Sen. Stanley Lyson					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

motion failed for lack of a second.

Date: 3-14-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1467

Senate **Human Services** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do not Pass

Motion Made By Sen Dever Seconded By Sen Brown

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman	✓		Sen. John Warner	✓	
Sen. Dick Dever - Vice Chairman	✓				
Sen. Richard Brown	✓				
Sen. Stanley Lyson		✓			

Total (Yes) 4 No 1

Absent Ø

Floor Assignment Sen. J. Lee

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1467, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO NOT PASS** (4 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1467 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1467

Smith, Karla

From: Dockter, Claude
Sent: Tuesday, January 25, 2005 2:53 PM
To: Smith, Karla
Subject: RE: HB 1467

Importance: High

Keep this in your files so when and if the time comes you have it. I know Mike is trying to arrange a meeting with 1467 sponsors to make it go away. The society might want to work on plan 'b'. Getting everybody on the board okay with a letter and the mass emailing of the committee might be a good start. The next you might want to secure two key people to testify in opposition to 1467. I thought Jack said it might be heard this week or next (I could be wrong but rather be ready so when they do have the hearing the BOD is ready to act and get key people involved. SO that is my unsolicited opinion. Sorry for intruding. Take care. Oh yah... Are you having fun yet?

Claude Dockter BS. RRT
Coordinator Clinical Services
Great Plains Rehabilitation Services
(701) 530-4006
cdockter@primecare.org

-----Original Message-----
From: **Smith, Karla**
Sent: Tuesday, January 25, 2005 2:46 PM
To: Dockter, Claude
Subject: RE: HB 1467

Thanks, Claude!!

-----Original Message-----
From: Dockter, Claude
Sent: Tuesday, January 25, 2005 2:45 PM
To: Smith, Karla; Runge, Mike
Subject: HB 1467
Importance: High

Mike and Karla:
I took the liberty of taking the House information for the Government and Veterans Affairs Committee and breaking down their information so when the time comes it can be mass produced through emails along with a template of a letter for others to email the committee members.

CB Haas - Chairman -,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, District 36 chaas@state.nd.us
<mailto:chaas@state.nd.us> Taylor
Bette B. Grande - Vice Chairman,,,,,,,,,,,,,, District 41 bgrande@state.nd.us
<mailto:bgrande@state.nd.us> Fargo
Randy Boehning,,District 27 rboehning@state.nd.us
<mailto:rboehning@state.nd.us> Fargo
Glen Forseth ,,,District 6 gfroseth@state.nd.us
<mailto:gfroseth@state.nd.us> Kenmare
Pat Gavlin,,District 33 pgalvin@state.nd.us
<mailto:pgalvin@state.nd.us> Hazen
Stacey Horter,,, District 42 shorter@state.nd.us
<mailto:shorter@state.nd.us> Grand Forks
Jim Kasper,,, District 46 jkasper@state.nd.us

North Dakota 59th Legislative Assembly
2005
House Bill 1467

February 10, 2005

Good Morning Representatives,

My name is Karla Smith, I am a registered respiratory therapist in the state of North Dakota and am on the Board of Directors for the North Dakota Society for Respiratory Care. On behalf of the Society, I speak in support of the amendment of HB 1467 which would allow respiratory therapy students to apply and obtain a temporary license while they complete their Respiratory Therapy education. This amendment states specific conditions to be met for the student to obtain and retain their license.

I would first like to say that the Respiratory Therapy Practice Act was enacted by the North Dakota Legislature to protect the citizens of North Dakota because the legislature recognized the potential for harm from unlicensed practice. Our goal is not to compromise on the act and that is why we feel that these restrictions on students are needed to uphold the Practice Act.

I have many years in the clinical setting as an instructor for respiratory therapy students and I know firsthand that even the most gifted student still needs and requires close supervision. The critical thinking is learned alongside a seasoned veteran of the field. That is why the amendment states that procedures performed by a student must be done within the close supervision of a licensed healthcare professional.

This amendment also states that the healthcare institution where the student is working, must provide annual evidence of progression toward graduation and also that the student must only provide care or perform procedures which he or she has completed and shown documented competency.

A scenario we are trying to avoid would be that of a mother taking her asthmatic child into an emergency room for treatment because of a severe and life-threatening asthma attack. This mother has the right to be assured that the care her child will receive will come from someone who is a professional in their field. Imagine her surprise when she finds out the person caring for her child is a student who has only been in class for 1 month and has no experience with this type if respiratory emergency. Asthma can be fatal if not treated properly and acted upon quickly.

The final point that we would like to make is that a 4 year maximum renewal on this license is very reasonable as the program used currently is an Associate Degree Program. If the student is attending class on a full time basis it would take 2 years to complete the program and 4 years to complete the program on a part-time basis. Thus, it makes sense that a 4 year maximum renewal period is more than adequate. A period of time longer than that may indicate unsatisfactory or inadequate progress in the program.

The North Dakota Society for Respiratory Care would like to urge you to protect the practice act by accepting the proposed amendment to HB 1467.

Thank you for your consideration of our request,

Karla Smith, RRT
North Dakota Society for Respiratory Care

North Dakota 59th Legislative Assembly
2005
House Bill No. 1467

February 10, 2005

Good Morning, Representatives

My name is Will Beachey. I am on the Board of Directors for the North Dakota Society for Respiratory Care. I also serve on the Committee on Accreditation for Respiratory Care (CoARC), which functions under the auspices of the Commission on Accreditation for Allied Health Education Programs (CAAHEP). CAAHEP is the national accrediting body for all respiratory therapy educational programs in the country. On behalf of the Society, I speak in support of the amendment to this bill, which would allow respiratory therapy students to obtain temporary license, but only under specific conditions.

To appreciate why the conditions outlined in the amendment are so important, one must first understand the nature of a respiratory therapist's work. Respiratory therapists exercise considerable independent judgment (much like nurses) in caring for and evaluating patients with heart and lung diseases in and out of the hospital setting. In intensive care units and emergency rooms, respiratory therapists insert artificial airways, draw and analyze blood, administer drugs, initiate and manage mechanical ventilation, perform invasive cardiovascular monitoring, interpret lab and x-ray data, and change treatment based on this information. Outside of the hospital they work in pulmonary rehabilitation facilities and in the home, assessing the patient's physical condition, ensuring proper equipment function, and teaching patients about their disease and how to care for themselves. This is why the North Dakota legislature enacted the respiratory therapy practice act; it recognized that harm could come to its citizens from unskilled practice. The Society's main concern is that the integrity of the act is not undermined. The practice act relies on a nationally validated certification exam to verify competence; this safeguard is missing for student practitioners. This is why the Society believes it is very important to incorporate special restrictions in any bill that would license students. It is also why a temporary license should not be indefinitely renewable. Students need to progress through their program in a timely manner. Four years to complete a two-year distance program is realistic and achievable.

While it is true that individual hospital policies affect what and how often procedures are performed, it is also true that emergencies occur in any setting, and as life support specialists, respiratory therapists are involved in all of them. This is an especially troublesome fact in smaller institutions where respiratory therapists are more likely to function independently and go unsupervised; it accentuates the potential for harm that could come from unskilled practice. At issue, then, is the integrity of a practice act in protecting patient safety and the right of North Dakota citizens to expert care. We believe that the amendment to HB 1467 addresses these issues, and we support the amendment.

Respectfully,

Will Beachey, PhD, RRT
North Dakota Society for Respiratory Care

North Dakota 59th Legislative Assembly
2005
House Bill No. 1467

February 10, 2005

Good Morning, Representatives

My name is Will Beachey. I am on the Board of Directors for the North Dakota Society for Respiratory Care. I also serve on the Committee on Accreditation for Respiratory Care (CoARC), which functions under the auspices of the Commission on Accreditation for Allied Health Education Programs (CAAHEP). CAAHEP is the national accrediting body for all respiratory therapy educational programs in the country. On behalf of the Society, I speak in support of the amendment to this bill, which would allow respiratory therapy students to obtain temporary license, but only under specific conditions.

To appreciate why the conditions outlined in the amendment are so important, one must first understand the nature of a respiratory therapist's work. Respiratory therapists exercise considerable independent judgment (much like nurses) in caring for and evaluating patients with heart and lung diseases in and out of the hospital setting. In intensive care units and emergency rooms, respiratory therapists insert artificial airways, draw and analyze blood, administer drugs, initiate and manage mechanical ventilation, perform invasive cardiovascular monitoring, interpret lab and x-ray data, and change treatment based on this information. Outside of the hospital they work in pulmonary rehabilitation facilities and in the home, assessing the patient's physical condition, ensuring proper equipment function, and teaching patients about their disease and how to care for themselves. Mastering these critical thinking and judgment skills requires rigorous study and closely supervised clinical training—and I speak from thirty years of experience as the director of several accredited respiratory therapy educational programs in the country. So we think it is very important to put restrictions in place that protect patients from the possibility of unskilled practice.

While it is true that individual hospital policies affect what and how often procedures are performed, it is also true that emergencies happen in any setting, and as life support specialists, respiratory therapists are involved in all of them. In fact, in smaller institutions respiratory therapists are more likely to function independently and go unsupervised, which accentuates the potential for harm that could come from unskilled practice. At issue, then, is the integrity of a practice act in protecting patient safety and the right of North Dakota citizens to expert care. We believe that the amendment to HB 1467 addresses these issues.

Respectfully,

Will Beachey, PhD, RRT
North Dakota Society for Respiratory Care

The North Dakota Society for Respiratory Care Urges You to Vote No on HB 1467 for the Following Reasons:

- Respiratory therapists are life support specialists, exercising considerable independent judgment, much like nurses, in caring for and evaluating patients with heart and lung ailments.

- HB 1467 would make it legal for newly admitted, inexperienced respiratory therapy students to obtain an unrestricted license to perform respiratory therapy procedures without supervision.

- North Dakota legislators enacted the Respiratory Therapy Practice Act in the first place to protect the public from the great harm that could come from unskilled practice.

- HB 1467 calls into question the integrity of all practice acts; it makes a mockery of a practice act's purpose—to protect the public from unskilled practice.

- Conferring a student license does not bestow competence on the student.

- HB 1467's main impetus was:
  - to alleviate a hospital's respiratory therapist recruitment difficulties
  - to make it possible to bill for services performed by unsupervised, unlicensed respiratory therapy students working as regular employees.

- The potential for harm from unskilled practice is accentuated in smaller hospitals where respiratory therapists are more likely to function independently and with no supervision

- Making licensure accessible to new inexperienced students devalues patient safety and the right to expert care, placing them at a lower priority than economic concerns.

- Efforts to alleviate respiratory therapy staff shortages must never take priority over the protection of patient safety and the patient's right to expert care.

- Patient safety is not an acceptable trade-off for solving a hospital's manpower and economic concerns.

- No other licensed healthcare profession in the state of North Dakota has a provision for a temporary student license.

Rod St. Aubyn

From: Rod St. Aubyn [rod.st.aubyn@noridian.com]

Sent: Thursday, February 10, 2005 1:46 PM

To: C. Haas; Bette Grande; Randy Boehning; Glen Froseth; Pat Galvin; Stacey Horter; Jim Kasper; Lawrence Klemin; Lisa Meier; Margaret Sitte; Bill Amerman; Kari Conrad; Louise Potter; Sally Sandvig

Cc: kimberw@utma.com; mrunge@primecare.org

Subject: HB 1467

Mr. Chairman and committee members,

I have had our medical management staff review the hoghouse amendments and the original bill draft. As I indicated, inpatient hospital services are paid by BCBSND through a DRG system. So each diagnosis has a reimbursement which includes all the normal services which would be expected for that diagnosis. So as a result, the respiratory therapist services are not billed individually to us. As noted in the below policy, Blue Cross Blue Shield of North Dakota uses the license as criteria for getting direct reimbursement. I do not believe any other boards allow licenses. We believe there is a category for physicians in a residency program. BCBSND does list Respiratory Therapists as health care professionals, but we do not have any with individual provider numbers. All their billings comes through institutions.

That policy is as listed below:

BCBSND Bulletin 200, August 2000

Policy
Professionals in Training
BCBSND has established the following guidelines for professionals in training. To be reimbursed directly by BCBSND, the professional provider must be licensed, registered or certified by the appropriate state agency and must meet the credentialing criteria set forth by BCBSND.
Professionals in training must practice under the direct supervision of a provider who has met the above guidelines. Direct supervision means the supervising provider must be present in the office suite and be immediately available to provide assistance or direction to the professional in training. To be considered for reimbursement by BCBSND, the services must be billed using the supervising provider's identification number (PIN) and appropriate modifier where applicable. Posted on: 05/09/2002

We pay Critical Access Hospitals the same way we pay other hospitals, based on the DRG rate. I believe Medicare pays on a cost plus basis. BCBSND could incur some increased costs in the outpatient services, but we believe this is a small part of RT charges.

We would oppose any move to allow for direct billing for these services. However, neither this bill nor the proposed amendments provide for direct billing.

Our initial review indicates that this bill and the hoghouse amendments will have no direct impact on our company and therefore, we would not have any opposition to it. I am also sending this response to 2 of the people who had shown an interest in this bill so they are informed of our position.

In response to one of the questions asked:

Do other student practioners (such as student nurses, PA students, Med Students, etc) bill for their services and are they reimbursed by BCBSND? **No other students can direct bill for services, unless they are licensed and are allowed to direct bill for their services. We are not aware of any other licensed student medical**

professionals, other than possibly physicians in residency programs.

I hope this answers your questions. Thanks. Rod

Rod St. Aubyn
Director - Government Relations
Noridian Mutual Insurance Co.
4510 13th Avenue SW
Fargo, ND 58121-0001
701-282-1847
email - rod.st.aubyn@noridian.com

Presentation Medical Center

PO BOX 759
213 2nd AVE. N.E.
ROLLA, ND 58367

PHONE: 701-477-3161
FAX: 701-477-5564

June 23, 2003

Edward E. Erickson
Assistant Attorney General
Office of Attorney General
State of North Dakota
600 E. Boulevard Avenue
Department 125
Bismarck, ND 58505-0040

Dear Mr. Erickson:

Both Christopher Albertson and I have received the letters date June 13, 2003, regarding the issue of temporary licensure. Prior to re-instituting the student program at Presentation Medical Center with Mr. Albertson, Kathleen Langan, Director of Respiratory Therapy, contacted Duane Flick at the North Dakota Board of Respiratory Therapy. Based upon information from Mr. Flick, decisions were made by both Presentation Medical Center and Mr. Albertson. Mr. Albertson made a life altering decision for both him and his family when he chose to begin the Respiratory Therapy Program and become employed at Presentation Medical Center. Our organization chose to invest significant time and money toward the education of Mr. Albertson. Only after much contact with Mr. Flick and representatives of the Board of Respiratory Therapy is Presentation Medical Center and Mr. Albertson being told of the interpretation and mistake as outlined in your letter. Both Mr. Albertson and staff from Presentation Medical Center are feeling disheartened and mislead.

The training program utilized at Presentation Medical Center was modeled after a program established at MedCenter One in Bismarck. Additionally, Ms. Langan has been in contact with several Respiratory Therapy Practitioners at different facilities and the training process being utilized by Mr. Albertson is how they also received training. Also, the Respiratory Therapy Practice Act states " This chapter does not prohibit a person enrolled in a bona fide respiratory care training program from performing those duties essential for completion of a student's clinical service; provide, that the duties are

preformed under the supervision or direction of a physician or Registered Respiratory Therapist . . . " No place in the Practice Act alludes to direct supervision; a significant distinction.

In an e-mail to Cheri Larson on April 17, 2003, I requested a meeting between her and Mr. Flick from the Board of Respiratory Therapy and Mr. Albertson, Ms. Langan and me from Presentation Medical Center. As you offered in your letter, we would very much like to meet with you and representatives from the Board of Respiratory Therapy. We would be available to meet in Bismarck on the following days:

Wednesday, July 2, 2003	Tuesday, July 22, 2003
Monday, July 7, 2003	Wednesday, July 23, 2003
Friday, July 11, 2003	Thursday, July 24, 2003
Thursday, July 17, 2003	Friday, July 25, 2003
Friday, July 18, 2003	

Please notify me as to the date and time that would be convenient for you and the others participating in this meeting.

Should you have any questions or need further clarification, please feel free to contact me at 701-477-3161.

Sincerely,

Kimber L. Wraalstad, CHE
President/CEO

cc: Christopher Albertson
Kathleen Langan

HB 1467

Greetings Senator Lee and Committee members:

My name is Kathleen Langan. I am the Director of Respiratory Care at Presentation Medical Center in Rolla. I have worked in the Respiratory Care Field since 1989.

I am here today to support HB 1467.

In 2000-2001, the Respiratory Care Department at Presentation Medical Center had been experiencing a staffing shortage. Two of the four full time Respiratory Therapist positions were open without any applicants. In May of 2001, a young-bright gentlemen, Christopher Albertson approached me and inquired about how I obtained my education. I told him that I attended a correspondence school for Respiratory Therapy, California College of Health Science Center in San Diego California. This is a program that allows students to work with a temporary license and train on the job. He then stated that he was very interested in becoming a Respiratory Therapist like his father was.

On June 21, 2001, I spoke to the Administrative Assistant of the North Dakota State Board of Respiratory Care. I asked if the law was the same as it was when I trained on the job in 1989. This provision allowed the student when enrolled in school to apply for a temporary license. I was told it was still the same.

On August 1, 2001, Mr. Albertson began employment at Presentation Medical Center to pursue his degree of a Registered Respiratory Therapist. In October 2002 Mr. Albertson finished his required prerequisite classes needed to enroll in California College for Health Sciences Registered Respiratory Therapy program. In November, he applied for a temporary license from the North Dakota State Board of Respiratory Care. On December 4, Mr. Albertson received a temporary license and welcome letter from Cherri Larson, the board chairperson.

During March 2003 while preparing to host the North Dakota Society for Respiratory Care Fall Forum, I reviewed the Society's Web Page to make

sure all the information regarding the Forum was correct. On the web page there is a link to the North Dakota Respiratory Therapy Practice Act. I then proceeded to view the practice act. It was then that I noticed that the provision for the temporary license was not the same as the handbook that I had.

I then proceeded to contact the State Board of Respiratory Care and asked about the difference in the verbiage contained in the Respiratory Care Handbook and the web page link to the Respiratory Care Act. I was then told by Chairperson Cherri Larson that there had been Legislative changed in 2001, removing the temporary license provision for students. Mr. Albertson was then contacted to return the temporary license he received in December 2004.

The provisional license provision is very important to Presentation Medical Center. We would not have a Respiratory Care Department if this avenue was not available. Two of three Respiratory Therapists employed at Presentation Medical Center, have obtained their degrees via this route. It is very hard to find Respiratory Therapist to come to rural areas, so when Chris was excited about pursing a Respiratory Therapy degree, I, along with many other were very excited.

Other rural facilities have used this method of training Respiratory Therapist also. I would like to submit supporting letters from other rural facilities at this time.

Due to high prevalence of respiratory disease in the Rolette County area, Presentation Medical Center's Respiratory Care Department, plays an important role of the medical team that treats a majority of our patients. Our patients need Respiratory Therapist.

By passing HB 1467, patients from rural areas will continue to have access to qualified Respiratory Therapist.

I would like to thank you for giving me this opportunity to testify this morning on behalf of HB 1467.

HB 1467

Thank you Committee of Government and Veterans Affairs:

My name is Christopher Albertson. I have lived in rural North Dakota my whole life and am currently a student of respiratory care working at Presentation medical center in Rolla ND.

- I am a student of respiratory care through California College of Health Sciences. I began working at Presentation Medical Center in Rolla in the respiratory care department as a secretary while I passed my prerequisite courses. Only after I was officially enrolled in school and trained to preform certain procedures was I allowed to work with a certified respiratory therapist on back up call.

- I was issued a temporary license under the old provision. Though the law had changed the board secretary had no knowledge of the change. The license was then given back .

- I love my job, I love helping people, and I love the fact that most of the patients I see and help are my friends.

- I have a strong desire to remain in rural North Dakota. With out the program I was placed into I would not have been able to stay in the Rolla area.

- There is already a shortage of respiratory therapists in the nation as well as the state. A temporary license provision would increase the number of respiratory therapists the state produces and retains.

- Individuals working under a temporary license provision and going through school make more money and are good for the economy of North Dakota.

- The temporary license provision would not cost the state of North Dakota any thing.

Thank you for your time

Christopher Albertson

Testimony Before the Government and Veterans Affairs Committee
Regarding House Bill 1467
February 10, 2005

Representative Haas and Members of the Government and Veterans Affairs Committee:

Thank you for the opportunity to speak in favor of H.B. 1467. I am Kimber Wraalstad, President/CEO of Presentation Medical Center in Rolla.

Presentation Medical Center is a 25-bed Critical Access Hospital. Our Hospital provides the full continuum of inpatient and outpatient services. During the previous five years, the top four reasons for admission have been normal newborn, simple pneumonia, chronic obstructive pulmonary disease and vaginal delivery. As you can see, two of the diagnoses involve the respiratory system. Because of the high incidence of respiratory disease in our area and the resulting admissions, Presentation Medical Center has continually maintained a Respiratory Therapy department.

Because of Presentation Medical Center's on-going commitment to preserving a Respiratory Care department, we have experienced difficulty in the recruitment of therapists. For many years, Presentation Medical Center has had a program of supporting students. In the respiratory therapy area, Presentation Medical Center paid for the tuition to a correspondence program and provided employment for the students. Two of the three therapists currently employed by Presentation Medical Center have received their education in this manner. The first therapist, Gloria Joliffe, began her training program in 1987 and received her permanent license in 1989. She has been employed in the respiratory care department for 17 years. The second employee is Kathleen Langan, our current Director of Respiratory Care. She began her training program in 1989 and received her permanent license in 1990. She has been employed at Presentation Medical Center for 15 years. She and her husband own a home and they have two young children currently enrolled in the St. John school district.

We, at Presentation Medical Center, have found this method to be the most effective in recruiting and retaining employees. In addition to the correspondence program in Respiratory Care and other departments, Presentation Medical Center has also worked with Williston State College, Minot State University – Bottineau and Lake Region State College to develop locally available Nursing programs that would allow students to go to school part-time and work part-time. Often we see our young people leave the community for schooling and then not return. We are trying to make options available to people who are not in a position to move away

for school yet who are interested in furthering their education and employment opportunities. Presentation Medical Center established these support programs in many different departments, including nursing, medical records, radiology and dietary.

Presentation Medical Center is no different than many other rural facilities in North Dakota. We are all trying to maintain appropriate and adequate staffing for our facilities. Even more importantly, we are attempting to encourage people to stay in our rural communities.

The training option for respiratory care personnel was established at Presentation Medical Center over 17 years ago. It was done so with the understanding that services provided by the students could be billed to Medicare, Medicaid and other third party insurers. After the misunderstanding with the North Dakota Board of Respiratory Care involving our current respiratory therapy student, Chris Albertson, Presentation Medical Center was aware that we would not be able to bill for services provided by the student because he was not licensed. Several years after employing Chris, we discovered that in 2001, the Legislature, at the request of the Board of Respiratory Care, passed a "housekeeping bill." That bill eliminated the temporary license for students enrolled in a respiratory therapy education program. The impact of this change is now being felt. For Presentation Medical Center to continue to sponsor respiratory care students through their years of training, it is necessary to be able to bill for the services that they provide. The provision of a temporary license will allow these individuals to provide services as licensed providers. I encourage you to support H.B. 1467 that will allow Presentation Medical Center and other facilities to have the flexibility to train respiratory therapy students in our facilities and in our communities with the support of correspondence programs.

Presentation Medical Center continually strives to provide the best possible service to our patients and our community. Providing these services requires staff. This bill will allow our facility the continued ability to recruit and educate respiratory care staff who are committed to our organization and our patients.

I thank you for your consideration and would gladly respond to any questions.

Thursday, February 10, 2005

PROPOSED AMENDMENTS TO HB 1467

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new subsections to sections 43-42-01 and 43-42-03 of the North Dakota Century Code, relating to temporary licenses for respiratory therapy students.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 43-42-01 of the North Dakota Century Code is created and enacted as follows:

"Student respiratory therapist" means a respiratory therapy student currently enrolled in a bona fide respiratory therapy educational program that is accredited and in good standing with the commission on accreditation of allied health education programs, or its successor organization, and who meets the requirements of and holds a temporary license under section 43-42-01.

SECTION 2. A new subsection to section 43-42-01 of the North Dakota Century Code is created and enacted as follows:

A temporary license may be issued to a student respiratory therapist under the following conditions:

a. The student must be currently enrolled in a bona fide respiratory therapy educational program, accredited and in good standing with the commission on accreditation of allied health education programs, or its successor organization.

b. The student must apply to the board for the temporary license in accordance with application instructions and requirements established by the board.

c. The student must pay the same application, initial issuance and renewal fees as other temporary licensees.

d. The student may only perform procedures that have been part of courses the student has successfully completed in the accredited program in which he or she is enrolled, and for which the healthcare institution has verified and documented competency.

e. The student may only perform respiratory therapy procedures under the proximate supervision or direction of a physician, certified or registered respiratory therapist or registered nurse who is physically close enough to be readily available if needed by the supervised student.

f. The healthcare institution and the student must annually supply evidence of satisfactory and timely progress toward graduation to the board as a condition for renewal of the temporary license.

g. A temporary student respiratory therapist license may be renewed annually for a maximum of four years.

h. A student holding a temporary respiratory therapy student license must be identified to the public as a student respiratory therapist while working in a healthcare institution.

i. Upon graduation, a student holding a temporary respiratory therapy student license is subject to section 43-42-05 regarding application for a permanent license."

Renumber accordingly

HB 1467

Thank you Committe of Human Services:

My name is Christopher Albertson. I have lived in rural North Dakota my whole life and am currently a student of respiratory care working at Presentation medical center in Rolla ND.

- I am a student of respiratory care through California College of Health Sciences. I began working at Presentation Medical Center in Rolla in the respiratory care department as a secretary while I passed my prerequisite courses. Only after I was officially enrolled in school and trained to preform certain procedures was I allowed to work with a certified respiratory therapist on back up call.

- I was issued a temporary license under the old provision. Though the law had changed the board secretary had no knowledge of the change. The license was then given back .

- I love my job, I love helping people, and I love the fact that most of the patients I see and help are my friends.

- I have a strong desire to remain in rural North Dakota. With out the program I was placed into I would not have been able to stay in the Rolla area.

- There is already a shortage of respiratory therapists in the nation as well as the state. A temporary license provision would increase the number of respiratory therapists the state produces and retains.

- Individuals working under a temporary license provision and going through school make more money and are good for the economy of North Dakota.

- The temporary license provision would not cost the state of North Dakota any thing.

2005 North Dakota 59th Legislative Assembly
House Bill No. 1467

March 9, 2005

Good Morning Chairman Lee and Committee Members:

My name is Will Beachey. I am on the Board of Directors for the North Dakota Society for Respiratory Care, and I also serve on the Committee on Accreditation for Respiratory Care (CoARC), the national accrediting agency for all respiratory therapy educational programs in the country. On behalf of the Society, I speak in **opposition to HB 1467**, which would allow respiratory therapy students to obtain a temporary license to practice respiratory therapy. **No other licensed healthcare profession in the state of North Dakota has a provision for a temporary *student* license.**

It is important to understand why this bill was introduced. A hospital in this state has difficulty recruiting licensed respiratory therapists. It addresses this problem by hiring otherwise unqualified individuals, enrolling them in a California-based correspondence school for respiratory therapy and uses them to provide respiratory therapy services, presumably while engaged in a structured clinical education experience as students. The student's employer acts as the clinical instructor in this arrangement. A pertinent CoARC safeguard in this regard is an accreditation standard that states: "*All activities required in the program must be educational and students must not be substituted for staff.*"

It is important to know that students performing respiratory therapy as part of their clinical education are exempt from the North Dakota respiratory therapy statute. However, the hospital claimed in testimony to the House Government & Veterans Affairs Committee that it cannot bill for services the student performs unless the student is licensed. We have since found this claim to be unfounded. The Director of Government Relations for the Noridian Mutual Insurance Company in North Dakota states that **Blue Cross reimburses hospitals on a fixed basis, based on the patient's diagnosis, and that the same amount is paid regardless of whether respiratory therapy is provided—even in rural Critical Access Hospitals.** In addition, the **Centers for Medicare & Medicaid Services (CMS) in Washington verified that Medicare does not reimburse for student-performed services even if the student holds a temporary license. Thus, there is no basis for a temporary student license.**

HB 1467 is not only unnecessary; it is conceptually flawed. Granting a student license does not bestow competence. Patient safety and the patient's right to expert care are not acceptable trade-offs in meeting a hospital's manpower needs. **We urge the Committee to recommend a DO NOT PASS vote for HB 1467.**

Respectfully,

Will Beachey, PhD, RRT
North Dakota Society for Respiratory Care

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Region VIII
1600 Broadway, Suite 700
Denver, Colorado 80202-4967

March 8, 2005

MEDICARE POLICY REGARDING RESPIRATORY THERAPY SERVICES PROVIDED BY A STUDENT OR A STUDENT WITH A TEMPORARY LICENSE IN A CRITICAL ACCESS HOSPITAL (CAH)

The question was presented to the Centers for Medicare and Medicaid Services (CMS) if Medicare would pay for a respiratory therapy student to provide services in a CAH including direct supervision and indirect supervision circumstances.

On April 11, 2001, CMS issued Program Memorandum AB-01-56 http://www.cms.hhs.gov/manuals/pm_trans/AB0156.pdf which states clearly that services performed by a student are not reimbursed under Medicare Part B. Medicare pays for services of physicians and practitioners authorized by statute. Respiratory Therapy students do not meet the definition of practitioners listed in §1861(s) of the Act. http://www.ssa.gov/OP_Home/ssact/title18/1861.htm. Further, §1820(e) of the Act http://www.ssa.gov/OP_Home/ssact/title18/1820.htm#e defines a CAH as follows:

The Secretary shall certify a facility as a critical access hospital if the facility—

(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (c);
(2) is designated as a critical access hospital by the State in which it is located; and
(3) meets such other criteria as the Secretary may require.

Respiratory therapy can be covered under Medicare Part A when services are furnished by a licensed and certified respiratory therapist or qualified technician in a CAH. The services are covered as ancillary services under the inpatient hospital benefit. When furnished by a nurse, the services would constitute nursing services and would be covered as such under the inpatient hospital benefit. However, services provided by students regardless of whether they have a temporary license or not, would not be a covered benefit under Part A.

It should be noted, however that the only exception to the rules stated above would be provided for under 42 CFR Section 413.85. There is a provision in the law that allows for students to provide services and the facility can bill for any costs associated with those services. These services must be provided under a planned program of study that is licensed by State law, or if licensing is not required, is accredited by the recognized national professional organization for the particular activity. Such national accrediting bodies include, but are not limited to, the Commission on Accreditation of Allied Health Education Programs, the National League of Nursing Accrediting Commission, the

Association for Clinical Pastoral Education Inc., and the American Dietetic Association. The law reads as follows:

"CMS will consider an activity an approved **nursing and allied health** education program if the program is a planned program of study that is licensed by State law, or if licensing is not required, is accredited by the recognized national professional organization for the particular activity. Such national accrediting bodies include, but are not limited to, the Commission on Accreditation of Allied Health Education Programs, the National League of Nursing Accrediting Commission, the Association for Clinical Pastoral Education Inc., and the American Dietetic Association.

(f) Criteria for identifying programs operated by a provider. (1) Except as provided in paragraph (f)(2) of this section, for cost reporting periods beginning on or after October 1, 1983, in order to be considered the operator of an approved **nursing or allied health** education program, a provider must meet all of the following requirements:

(i) Directly incur the training costs.

(ii) Have direct control of the program curriculum. (A provider may enter into an agreement with an educational institution to furnish basic academic courses required for completion of the program, but the provider must provide all of the courses relating to the theory and practice of the **nursing or allied health** profession involved that are required for the degree, diploma, or certificate awarded at the completion of the program.)

(iii) Control the administration of the program, including collection of tuition (where applicable), control the maintenance of payroll records of teaching staff or students, or both (where applicable), and be responsible for day-to-day program operation. (A provider may contract with another entity to perform some administrative functions, but the provider must maintain control over all aspects of the contracted functions.)

(iv) Employ the teaching staff.

(v) Provide and control both classroom instruction and clinical training (where classroom instruction is a requirement for program completion), subject to the parenthetical sentence in paragraph (f)(1)(ii) of this section.

(2) Absent evidence to the contrary, the provider that issues the degree, diploma, or other certificate upon successful completion of an approved education program is assumed to meet all of the criteria set forth in paragraph (f)(1) of this section and to be the operator of the program.

(g) Payment for certain nonprovider-operated programs. (1) Payment rule. Costs incurred by a provider, or by an educational institution that is related to the provider by common ownership or control (that is, a related organization as defined in § 413.17(b)), for the clinical training of students enrolled in an approved **nursing or allied health** education program that is not operated by the provider, are paid on a reasonable cost basis if the conditions specified in paragraph (g)(2) of this section are met.

(2) Criteria for identification of nonprovider-operated education programs. Payment for

the incurred costs of educational activities identified in paragraph (g)(1) of this section will be made if the following conditions are met:

(i) The clinical training must occur on the premises of the provider, that is, in the hospital itself or in the physical area immediately adjacent to the provider's main buildings, or in other areas and structures that are not strictly contiguous to the main buildings but are located within 250 yards of the main buildings.

(ii) The provider must have claimed and been paid for clinical training costs on a reasonable cost basis during the most recent cost reporting period that ended on or before October 1, 1989. This condition is met if a notice of program reimbursement (NPR) was issued for that cost reporting period by November 5, 1990, and the clinical training costs were included as pass-through costs. If an NPR was not issued by that date, or an NPR was issued but did not treat the clinical training costs as pass-through costs, the condition is met if --

(A) The intermediary included the clinical training costs in the allowable costs used to determine the interim rate for the most recent cost reporting period ending on or before October 1, 1989; or

(B) The provider claimed the clinical training costs as pass-through costs when the cost report for the most recent cost reporting period ending on or before October 1, 1989, was initially submitted.

(iii) In any cost reporting period, the percentage of total allowable provider cost attributable to allowable clinical training cost does not exceed the percentage of total cost for clinical training in the provider's most recent cost reporting period ending on or before October 1, 1989.

(iv) The students in the educational program must provide a benefit to the provider through the provision of clinical services to patients of the provider.

(v) The clinical training costs must be incurred by the provider or by an educational institution related to the provider by common control or ownership as defined in § 413.17(b) (" Cost to related organizations. ") Costs incurred by a third-party, regardless of its relationship to either the provider or the educational institution, are not allowed.

(vi) The costs incurred by a provider does not exceed the costs the provider would have incurred if it was the sole operator of the program.

(3) Special rule: Payment for certain nonprovider-operated programs at wholly owned subsidiary educational institutions.

(i) Effective for portions of cost reporting periods occurring on or after October 1, 2003, a provider that incurs costs for a **nursing or allied health** education program(s) where those program(s) had originally been provider-operated according to the criteria at paragraph (f) of this section, and then operation of the program(s) was transferred to a wholly owned subsidiary educational institution in order to meet accreditation standards prior to October 1, 2003, and where the provider has continuously incurred the costs of

both the classroom and clinical training portions of the program(s) at the educational institution, may receive reasonable cost payment for such a program(s) according to the specifications under paragraphs (g)(3)(ii) and (g)(3)(iii) of this section.

(ii) Payment for the incurred costs of educational activities identified in paragraph (g)(3)(i) of this section will be made on a reasonable cost basis if a provider, as described in paragraph (g)(3)(i) of this section, received Medicare reasonable cost payment for those **nursing and allied health** education program(s) both prior and subsequent to the date the provider transferred operation of the program(s) to its wholly owned subsidiary educational institution (and ceased to be a provider-operated program(s) according to the criteria under paragraph (f) of this section).

(iii) The provider that meets the requirements in paragraphs (g)(3)(i) and (g)(3)(ii) of this section will be eligible to receive payment under this paragraph for: (A) the clinical training costs incurred for the program(s) as described in paragraph (g)(3)(i) of this section; and (B) classroom costs, but only those costs incurred by the provider for the courses that were included in the programs.

(h) Cost of educational activities treated as normal operating costs. The costs of the following educational activities incurred by a provider but not operated by that provider are recognized only as normal operating costs and paid in accordance with the reimbursement principles specified in Part 412 of this subchapter. They include:

(1) Orientation and on-the-job training.

(2) Part-time education for bona fide full-time employees at properly accredited academic or technical institutions (including other providers) devoted to undergraduate or graduate work.

(3) Educational seminars, workshops, and continuing education programs in which the employees participate that enhance the quality of medical care or operating efficiency of the provider and, effective October 1, 2003, do not lead to the ability to practice and begin employment in a **nursing or allied health** specialty.

(4) Maintenance of a medical library.

(5) Training of a patient or patient's family in the use of medical appliances or other treatments.

(6) Except as provided in paragraph (g) of this section, clinical training and classroom instruction of students enrolled in an educational program that is not operated by the provider. The following are clinical training and classroom instruction costs that are allowable as normal operating costs:

(i) Costs incurred in the clinical training of students, including the clinical training or clerkship of undergraduate medical school students that takes place in a provider.

(ii) Classroom instruction costs incurred by a provider that meet the following criteria:

(A) The provider's support does not constitute a redistribution of nonprovider costs to the provider. The support must be in addition to the costs already being incurred by the nonprovider-operated program. If the nonprovider entity reduces its costs due to receiving provider support, this reduction constitutes a redistribution of costs from an educational institution to a patient care institution and is a nonallowable provider cost.

(B) The provider receives a benefit for the support it furnishes.

(C) The cost of the provider's support is less than the cost the provider would incur were it to operate the program.

(7) Other activities that do not involve the actual operation of an approved educational program."

Therefore, if a respiratory therapy student is providing services under a certified teaching program within a hospital or CAH, it is possible for the hospital to bill for and be reimbursed for those services, however, the student can never bill the Medicare program directly for services regardless of whether there is supervision by a licensed respiratory therapist, physician or other provider.

If you have any further questions about this matter, please feel free to contact me at (303) 844-7058. I will be happy to assist you in any way.

Sincerely,

Jill B. Merrill

Jill B. Merrill
Health Insurance Specialist

HOUSE BILL 1467
Testimony In Opposition

My name is Claude Dockter. I have been associated with the respiratory care profession for 21 years as an on the job trainee, as a Certified Respiratory Therapist, as a Registered Respiratory Therapist, and as a supervisor of Respiratory Therapists.

House Bill 1467 is not needed. It creates two concerns for the State of North Dakota.

1. Loss of good paying jobs
2. Patient Safety

House Bill 1467 if passed creates an opportunity for employers to hire less skilled workers at a lesser wage. As the financial pressures of healthcare continue to cave in on the Administrators of financially strapped healthcare facilities, cheaper labor is a very inviting solution to budget problems. The State of North Dakota is fortunate to graduate 15 to 20 students from respiratory care programs. Many of those potential jobs will not be available to those students and they will migrate out of state, taking their potential earnings with them to other states.

House Bill 1467 if passed creates a situation in which the temporary licensed individual will be required to use his good judgement on weather to do a procedure or not do a procedure. The bill provides language intended to protect the public ".....may only perform procedures that have been part of courses the student has successfully completed.....". In my years of experience when in the midst of providing respiratory care services in an emergent situation you do not have the liberty to stop and say "....sorry I have yet to cover this procedure in my course of study.....". Practical application of this language will be difficult to enforce and monitor. House Bill 1467 will put you and me and our loved ones at risk.

As you can see House Bill 1467 starts a downward spiral. Creating the potential for loss of good paying jobs for highly skilled workers. Creating a potential for an under skilled workforce. Creating the potential for individuals with frail medical conditions to receive less than adequate care. House Bill 1467 is not in the best interest of the Citizens of North Dakota. I urge you as a citizen of North Dakota to give House Bill 1467 a **DO NOT PASS** recommendation.

Regarding House Bill 1467
Testimony Before the Senate Human Services Committee
March 9, 2005

Senator Lee and Members of the Senate Human Services Committee:

Thank you for the opportunity to speak in favor of H.B. 1467. I am Kimber Wraalstad, President/CEO of Presentation Medical Center in Rolla.

Presentation Medical Center is a 25-bed Critical Access Hospital. Our Hospital provides the full continuum of inpatient and outpatient services. During the previous five years, the top four reasons for admission have been normal newborn, simple pneumonia, chronic obstructive pulmonary disease and vaginal delivery. As you can see, two of the diagnoses involve the respiratory system. Because of the high incidence of respiratory disease in our area and the resulting admissions, Presentation Medical Center has continually maintained a Respiratory Therapy department.

Because of Presentation Medical Center's on-going commitment to preserving a Respiratory Care department, we have experienced difficulty in the recruitment of therapists. For many years, Presentation Medical Center has had a program of supporting students. In the respiratory therapy area, Presentation Medical Center paid for the tuition to a correspondence program and provided employment for the students. Two of the three therapists currently employed by Presentation Medical Center have received their education in this manner. The first therapist, Gloria Joliffe, began her training program in 1987 and received her permanent license in 1989. She has been employed in the respiratory care department for 17 years. The second employee is Kathleen Langan, our current Director of Respiratory Care. She began her training program in 1989 and received her permanent license in 1990. She has been employed at Presentation Medical Center for 15 years. She and her husband own a home and they have two young children currently enrolled in the St. John school district.

We, at Presentation Medical Center, have found this method to be the most effective in recruiting and retaining employees. In addition to the correspondence program in Respiratory Care and other departments, Presentation Medical Center has also worked with Williston State College, Minot State University – Bottineau and Lake Region State College to develop locally available Nursing programs that would allow students to go to school part-time and work part-time. Often we see our young people leave the community for schooling and then not return. We are trying to make options available to people who are not in a position to move away

for school yet who are interested in furthering their education and employment opportunities. Presentation Medical Center established these support programs in many different departments, including nursing, medical records, radiology and dietary.

Presentation Medical Center is no different than many other rural facilities in North Dakota. We are all trying to maintain appropriate and adequate staffing for our facilities. Even more importantly, we are attempting to encourage people to stay in our rural communities.

The training option for respiratory care personnel was established at Presentation Medical Center over 17 years ago. It was done so with the understanding that services provided by the students could be billed to Medicare, Medicaid and other third party insurers. After the misunderstanding with the North Dakota Board of Respiratory Care involving our current respiratory therapy student, Chris Albertson, Presentation Medical Center was aware that we would not be able to bill for services provided by the student because he was not licensed. Several years after employing Chris, we discovered that in 2001, the Legislature, at the request of the Board of Respiratory Care, passed a "housekeeping bill." That bill eliminated the temporary license for students enrolled in a respiratory therapy education program. The impact of this change is now being felt. For Presentation Medical Center to continue to sponsor respiratory care students through their years of training, it is necessary to be able to bill for the services that they provide. Thus, the addition of the provisional license will allow these individuals to provide services as licensed providers. I encourage you to support H.B. 1467 that will allow Presentation Medical Center and other facilities to have the flexibility to train respiratory therapy students in our facilities and in our communities with the support of correspondence programs.

Presentation Medical Center continually strives to provide the best possible service to our patients and our community. Providing these services requires staff. This bill will allow our facility the continued ability to recruit and educate respiratory care staff who are committed to our organization and our patients.

I thank you for your consideration and would gladly respond to any questions.

TEMPORARY

Florida Medical Examiners Board

CERTIFIED RESPIRATORY CARE PRACTITIONER

NAME CHRISTOPHER R. ALBERTSON

VALID 12-04-02 LICENSE T-795
THRU 01-31-04 NUMBER

SIGNATURE

North Dakota State Board of Respiratory Care

Box 2223 • Bismarck, North Dakota 58502 • Telephone 701-222-1564 • Fax 701-255-9149

TO: NORTH DAKOTA'S NEWEST RESPIRATORY THERAPIST

FROM: CHERRI S. LARSON, CHAIRPERSON, NDSBRC

SUBJECT: WELCOME ABOARD!

On behalf of the Board of Directors of the North Dakota State Board of Respiratory Care, I want to welcome you to the very challenging field of respiratory care.

We are pleased to enclose your first license to practice respiratory care in North Dakota for the period of 2002 through January 31, 200 . We thank you for your cooperation for filling out the various forms and meeting all the necessary requirements for licensure.

We have enclosed a copy of extra forms for your perusual. One is a Pre-approval form for your CEUs and the other is our Section B form to explain the CEU categories and also space to log your CEUs during your licensure year. Remember to obtain a PROVIDER NUMBER where appropriate.

We want to wish you success in this very challenging field!

If we can be of any other service to you, please contact us at the address listed above or by calling 701-222-1564.

Thank you.

Respiratory Care

From: "Allan Meckle" <respiratory@hamc.com>
To: "'Respiratory Care'" <respcare@pmc-rolla.com>
Sent: Tuesday, January 13, 2004 9:49 AM
Subject: RT duties performed

Kathleen,

Thank you for meeting with us in Bismarck yesterday.

I, with board approval, will be submitting a list of duties that Chris will be allowed to perform and not allowed to perform under supervision of an RN to the Assistant Attorney General. I would like your input into this list. Different facilities perform different duties and I want to be sure to include all the items that you request if agreed upon by the board. Please be sure that at no time that Chris presents himself as a respiratory therapist, but always as a student. I would also be concerned with billing treatments to Medicare done by a student.

I would appreciate if you could get these items to me today.

Sincerely,

Allan Meckle, RRT
NDSBRC Chairman

RN/CRT

Small Volume (Mini-neb) treatments and instructions
MDI/DPI treatments and instructions
Oxygen therapy
Oximetry
Aerosol Therapy
CPR
Incentive Spirometry
IPPB
CPAP
Bi-PAP
CPT
Postural Drainage
Suctioning
Tracheostomy Care
Croupette Setups

CRT

ABG
PFT
Apnea Monitors
Ventilator Management
Home Oxygen Instruction

CRNA/Physician

Intubation
Ventilator Managment

North Dakota State Board of Respiratory Care

Box 2223 • Bismarck, North Dakota 58502

1-21-04

Presentation Medical Center
213 2nd Ave. NE
Rolla, ND 58367

Kathleen Langen, CRT,

Enclosed is a list of duties that Chris may and may not perform. This list has been submitted to the Assistant Attorney General and has been approved by the board. Thank you for your input into this.

If you have any questions or concerns please contact me.

Sincerely,

Allan Meckle, RRT

Allan Meckle, RRT
NDSBRC Chairman

NDSBRC

Duties which may be performed:

The following may be performed, after documentation of proper instruction and competencies, under the supervision of an RRT, RN, or MD.

Oxygen -set up and administration
Oximetry – spot check or continuous
Metered Dose Inhaler -instruction and administration
Hand Held Nebulizer - set up, instruct and administration
Chest Physio Therapy - instruct and administration
Postural Drainage – instruct and administration
Cardio Pulmonary Resuscitation – with current card stating completion in past year
Pulse Oximetry - instruct and perform
Croup Tent – set up and maintenance
Oral and Tracheal Suctioning
Trach Cares
Aerosol Therapy – set up, instruct and administration
Incentive Spirometry – instruct and administration
Apnea Monitor – set up and instruct

Duties which may not be performed:

Arterial Blood Gases – Drawing and/or analyzing
BiPAP
CPAP
Mechanical Ventilation
Pulmonary Function Testing
Tracheal Intubations

Respiratory Care

From: "Allan Meckle" <respiratory@hamc.com>
To: "'Respiratory Care'" <respcare@pmc-rolla.com>
Sent: Monday, January 26, 2004 4:37 PM
Subject: RE: Duties

Kathleen,

Thanks for your questions. I hope this helps to answer them.

It states in the Respiratory Care Handbook, 43-42-05. Application of chapter, #4. That a licensed and qualified member of another health care profession is not prevented from performing any of the duties of a registered or certified therapist that are consistent with the accepted standards of that person's profession. It was the boards understanding, from your administrator, that an RN would be available in house at all times to supervise a student in a bona fide respiratory care training program. It does not state that a student can be under the supervision of a certified therapist, in fact in states in that same section, #1, that a person enrolled in a respiratory care training program can perform those duties essential for completion of a students clinical service; provided that the duties are performed under the supervision or direction of physician or registered respiratory therapist. An RN, under their accepted standards, can perform the duties of a registered respiratory therapist. Under the acceptable standards of a certified respiratory therapist there are no provisions for them to perform the duties of a registered therapist, which would include supervising a student in a respiratory care training program.

The duties that a student may perform were developed from the list of duties that you submitted. No additional duties will be approved for a student unless they would also fall under the accepted standards of a RN who would be in the facility to supervise the student.

Any furthur questions please contact me.

A blind courteousy copy has been sent to the NDSBRC members.

Sincerely,

Allan Meckle, RRT
NDSBRC Chairman

-----Original Message-----
From: Respiratory Care [mailto:respcare@pmc-rolla.com]
Sent: Monday, January 26, 2004 11:19 AM
To: respiratory@hamc.com
Subject: Duties

Hi Allan:

I received the letter which included the duties that Chris may or may not perform.

It was our understanding at the meeting in Bismarck - that I would be able to supervise Chris or an RN.

Am I misinterpreting the letter that you have sent?

Also if he shows proficiency at the duties that he may not perform-- will these duties be added?

Kathleen

Respiratory Care

From: "Respiratory Care" <respcare@pmc-rolla.com>
To: <respiratory@hamc.com>
Sent: Wednesday, December 24, 2003 1:37 PM
Subject: Re: NDSBRC Meeting Minutes

Hey Allen:

Merry Christmas to you too!

Thanks for the information!

Kathleen

----- Original Message -----
From: Allan Meckle
To: 'Respiratory Care'
Sent: Wednesday, December 24, 2003 1:33 PM
Subject: RE: NDSBRC Meeting Minutes

Kathleen,

Merry Christmas!

To get a copy of the minutes from past meetings you will need to send a written request to:

NDSBRC
Box 2223
Bismarck, ND 58502

Please send it to the attention of Duane Flick, Administrative Secretary, and he should be able to get you the information that you request.

If there is any thing else that you need please do not hesitate to contact me.

Sincerely,

Allan Meckle, RRT
NDSBRC Chairman

-----Original Message-----
From: Respiratory Care [mailto:respcare@pmc-rolla.com]
Sent: Monday, December 22, 2003 1:48 PM
To: respiratory@hamc.com
Subject: NDSBRC Meeting Minutes

Allan:

We would like a copy of the past North Dakota State Board of Respiratory Care meetings since 2000. I know this is short notice but, we would like to review them before we meet with you in January.

My thanks,
Kathleen

P.O. Box 1195 - 223-4th Avenue
Devils Lake, North Dakota 58301

(701) 662-5056
Toll Free: 1-800-522-5056

March 8th, 2005

North Dakota State Legislature
Human Services Committee

Dear Committee Members,

My name is Darrell Hovland, I am a Certified Respiratory Technician and I have been working as one in North Dakota for the past 31 years. I am writing this letter as a recommendation for House Bill No 1467 amending the Respiratory Therapy Licensure Act.

This amendment is very important to the providing of healthcare in rural North Dakota. It is very difficult and at times impossible to attract Respiratory Therapists to work in the rural communities. The only recourse rural areas have is to more or less "train their own therapists" and they accomplish this through the use of correspondence schools and in house training. It is the way I became a Respiratory Therapist along with many of my colleagues around the state.

The passage of House Bill No 1467 will ensure that small hospitals will continue to have competent Respiratory Therapists and will be able to provide Respiratory Therapy Services to their patients. I strongly recommend passage of this bill.

I apologize for not being able to testify in person on this important bill and I invite committee members to call me if they have further questions.

Thank you very much for your support of rural healthcare and Respiratory Therapists.

Sincerely,

Darrell Hovland
General Manager
C.A.R.E. Medical
1-800-522-5056

2/9/05

North Dakota State Legislature
Committee of Human Services

Dear Representative Lyson

I am writing today to support HB 1467.

I am a licensed respiratory therapist in Rolla, ND. I have received my training using the temporary license provision and California College for heath Sciences in 1988.

The passage of House Bill 1467 will ensure that small hospitals in rural areas will continue to have competent Respiratory Therapist and will be able to provide Respiratory Therapy services to their patients.

It is very difficult to attract Respiratory Therapist to work in rural communities. By utilizing the temporary license provision in HB 1467, rural hospitals will be able to train their own Respiratory Therapist through the use of correspondence schools.

Thank you very much for your support or rural health care and Respiratory Therapist.

Sincerely,

Gloria Jolliffe

Presentation Medical Center

PO BOX 759
213 2nd AVE. N.E.
ROLLA, ND 58367

PHONE: 701-477-3161
FAX: 701-477-5564

March 7, 2005

Senate Health and Human Services Committee
Bismarck, ND 58501

To all committee members:

I am writing this letter in support of HB 1467 that has already been passed by the House and is now in your hearing. This bill relates to temporary licensing for respiratory therapy students.

I would not ever have been able to get my license if it had not been for the temporary license clause and independent study in the respiratory therapy field.

I was a single mother of two small children, who was working in the respiratory therapy field as a respiratory therapy aide. I could not pick up and move due to the expense of the move, child care, and unable to support my children and myself if I was not working full time. I took the independent study while I was working. It was hard but very well worth it.

Now from the hospital stand point, the temporary license also helped them to be able to employ students and keep the department open by 'home growing' or 'train your own' therapists. There is not a lot of therapists who do not wish to come to a rural area to work at a small hospital where you need to be able to be ready to work in nursery to intensive care at any time as the need arises. If the hospital grows their own, the facility can count on the employee being there for a while as they are already established in the area.

This also helps to relieve the unemployment situation for those who can not move and are willing to increase their education and get out of the welfare situation. It gives pride to the individual who is now working and being self efficient.

Thank you for considering HB bill 1467 and please vote yes.

Sincerely,

Carrie Heinz CRCP

Carrie Heinz, Certified Respiratory Therapy

Sponsored By: Sisters of Mary of the Presentation

Dear Representative Haas and Committee of Government and Veterans Affairs: &

Senator Lyson and Committee of Human Services

I am writing concerning Legislative changes that were made during the 2001 Session by the North Dakota State Board of Respiratory Care. The changes that were made to the Respiratory Care Practice Act has had a tremendous impact on rural hospitals, especially Presentation Medical Center.

Many rural facilities in the past had the ability to put a student through school utilizing a correspondence school. When proficient, the student would be allowed to practice Respiratory Care under the provision of a temporary license under the direction or supervision of a Physician, Registered Respiratory Therapist or Certified Respiratory Therapist. It is in this manner that two of the Respiratory Care professionals at Presentation Medical Center received their education.

The changes made during the 2001 Legislative Session by the Board of Respiratory Care have deleted this provision of a temporary license. Many rural facilities are experiencing staffing shortages. This temporary license provision allowed facilities to maintain staff and provide excellent patient care. It is difficult to find quality Respiratory Therapists to fill the voice. Fewer and fewer Respiratory Therapists appreciate the life of rural North Dakota. By allowing people from the area to obtain an education, rural hospitals have been able to maintain Respiratory Therapy departments.

As a Family Practitioner in Rolla, North Dakota, I have managed patients with chronic COPD. Because of these patients, I have had the opportunity to work with several therapists who received their education through a correspondence program. They are knowledgeable, skilled, caring and dedicated to providing quality care. They provide excellent respiratory care to our patients and I feel they are an asset to Presentation Medical Center and the Respiratory Care profession.

It has been proposed that these changes be reversed during this Legislative Session with HB 1467. I would appreciate your support in this matter. Please feel free to contact me at 701-477-3964 if you have any questions or if I can provide you with additional information.

Sincerely,

Lowell B. Meier MD

Lowell B. Meier, M.D.

2/9/05

North Dakota State Legislature
Government and Veterans Affairs Committee

Dear Representative Haas:

I am writing today to support HB 1467.

I am a licensed respiratory therapist in Oakes, ND.

The passage of House Bill 1467 will ensure that small hospitals in rural areas will continue to have competent Respiratory Therapist and will be able to provide Respiratory Therapy services to their patients.

It is very difficult to attract Respiratory Therapist to work in rural communities. By utilizing the temporary license provision in HB 1467, rural hospitals will be able to train their own Respiratory Therapist through the use of correspondence schools.

Thank you very much for your support of rural health care and Respiratory Therapist.

Sincerely,

Mary E Quandt RRT

Mary Quandt

North Dakota State Legislature February 9, 2005
Government and Affairs Committee & Human Services Committee

Dear Committee Members,

I am a Certified Respiratory Technician, my name is Lisa Davison. I am a department head and currently practice Respiratory Care in a rural hospital in North Dakota. I write this letter in support of House Bill #1467 to amend the North Dakota Respiratory Therapy Licensure Act.

Respiratory Therapists are a valuable addition to the medical care of patients, it is a service that is not always easily available in rural areas due to a shortage of already trained therapists from other locations willing to work in those areas. For local people that would like to be therapists, it can be difficult to attend programs that are far away from their homes. Some of these prospective therapists have families and can not just pack up and leave to go away to school.

Correspondence schools coupled with in-house training can be a viable answer to that problem, and sometimes the only answer for some facilities to even have sufficient respiratory staff to cover their patient load.

Passing this Bill could help in enabling many small hospitals to employ and train those local people who are interested in a career in Respiratory Therapy, thus resulting in staff who have a vested interest in remaining within their communities to serve the people.

Do not ever forget that each one of us will take a turn in that hospital bed one day. The day that you or a loved one might be out in the middle of nowhere in North Dakota having an emergency... and their only hope is the nearest rural hospital, you might just pray that there is a respiratory therapist available to help them; correspondence trained or otherwise.

Respectfully,

Lisa Davison, CRTT

Lisa Davison, CRTT

Rick Morse
816 6th ST NE
Devils Lake, ND 58301
701-662-8332

February 8, 2005

North Dakota State Legislature
Government and Affairs Committee & Human Services Committee

Dear Committee Members:

I am writing to **urge your support for House Bill No. 1467** regarding the Respiratory Therapy Licensure Act.

As manager of a Respiratory Care Department at a small, rural hospital, I am very aware of the difficulty of attracting Respiratory Therapists to a rural community. Often, the **only** way to fill these positions is through the use of correspondence schools and in-house training. House Bill No. 1467 will help assure that small, rural facilities will be able to continue to provide these services to the people they serve.

I wholeheartedly support and recommend passage of this bill. If you wish to further discuss this issue, please feel free to contact me.

Thank you for your support of rural healthcare.

Sincerely,

Rick Morse
Certified Respiratory Care Practitioner

First Care Health Center

Respiratory Therapy
PO Box I / 115 Vivian St.
Park River, ND 58270
(701) 284-7500 ext 551 Fax (701) 284-7860

February 9th 2005

North Dakota State Legislature
Government and Affairs Committee & Human Servies Committee

Dear Committee Members:

I am sending this letter in support for House Bill No. 1467 regarding the Respiratory Therapy Licensure Act.

I live and work at a small rural hospital, I am very aware of the difficulty of attracting Respiratory Therapist to this area and have had to share call with a surrounding hospital to be able to cover our facility.

House Bill No. 1467 will help assure that small rural facilities such as ours will be able to continue to provide these services to the people we serve.

I support and recommend passage of this bill. If you wish to further discuss this please feel free to contact me.

Sincerely

Daniel Young
Registered Respiratory Therapist

2/7/05

North Dakota State Legislature
Government and Veterans Affairs Committee

Dear Representative Haas:

I am writing today asking you to support HB 1467.

I am a licensed Respiratory Therapist in Grand Forks, ND and work at Altru Hospital.

The passage of House Bill 1467 will ensure that small hospitals in rural areas will continue to have competent Respiratory Therapist and will be able to provide Respiratory Therapy services to their patients.

It is very difficult to attract Respiratory Therapist to work in rural communities. I have worked in rural facilities in the past, but because of the lack of daycare centers available for 24 hour care and no family in the area, I was forced to move to a larger city to find work. By utilizing the temporary license provision in HB 1467, rural hospitals will be able to train their own Respiratory Therapist through the use of correspondence schools.

Thank you very much for your support or rural health care and Respiratory Therapist.

Sincerely,

Shelly Swenson

Shelly Swenson, CRT

Charles Ranum, RRT
901 Franklin Ave.
Harvey, ND 58341

February 9th, 2005

Dear committee members;

I am the head of the Respiratory Care Department at St Aloisius Medical Center in Harvey. I have been here since 1985. I was the *last* RT successfully recruited from outside Harvey. All other RT's that have been successful here were trained here using correspondence materials. In fact, I myself obtained my degree the same way prior to moving to Harvey. Without the option to train on-the-job, Harvey would long since have lost RT services.

With this background I must strongly support the adoption of HB # 1467 amending the Respiratory Therapy Licensure Act. I would testify in person, were it not for tight scheduling constraints (I'm the *only* RT in Harvey.)

Thank you for your consideration.

Charles Ranum, RRT

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2162

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date January 16, 2001

Tape Number	Side A	Side B	Meter #
2		X	46.8 to end
3	X		0 to 17
Jan 17/ 01 3	X		0.8 to 3
April 03/01 1	X		35.1 to 40.3
Committee Clerk Signature Doris C Pérez			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on SB 2162 relating to the practice of respiratory care; and to provide a penalty.

GLENN THOM, President, ND Society of Respiratory care. Written testimony attached. The purpose of this bill is to provide clarity and remove outdated language. Submitted proposed amendment.

JAMES FLEMING, Asst. Attorney Gral. ND Board of Respiratory Care. There are no changes in practice only in the name. Respiratory care practitioner is the same as respiratory care therapist. Discussion held regarding changes in fees. Meeting adjourned.

January 17/01. Tape 3-A-0.8 to 3. Committee reconvened. All members present. Discussion held.

SENATOR TOLLEFSON: Motion to adopt amendment. SENATOR ESPEGARD: Second.

Roll call vote: 7 yes; 0 no. Motion carried.

SENATOR KLEIN: Motion: do pass as amended. SENATOR D. MATHERN: Second

Roll call vote: 7 yes; 0 no. Motion carried. Carrier SENATOR TOLLEFSON.

April 03/01. Tape 1-A-35.1 to 40.3

Committee reconvened. All members present. Amendments discussed.

Rep. Dale Severson, District 23: Bill died because the penalty clause was considered as giving too much authority to the board. When the section was removed, bill passed.

Senator Klein: Motion: do pass. **Senator Mathern**: Second.

Roll call vote: 7 yes; 0 no. Motion carried. Floor assignment: **Senator Tollefson.**

REPORT OF STANDING COMMITTEE (410)
January 18, 2001 9:39 a.m.

Module No: SR-08-1182
Carrier: Tollefson
Insert LC: 18267.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2162: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2162 was placed on the Sixth order on the calendar.

Page 3, line 22, remove the overstrike over "~~not in excess of~~", after "~~fifty~~" insert "one hundred", and remove the overstrike over "~~dollars~~"

Page 3, line 29, remove the overstrike over "~~not in excess of~~", after "~~thirty-five~~" insert "seventy", and remove the overstrike over "~~dollars~~"

Page 4, line 6, remove the overstrike over "~~not in excess of~~", after "~~thirty-five~~" insert "seventy", and remove the overstrike over "~~dollars~~"

Page 4, line 8, after "fee" insert "not in excess of twenty-five dollars"

Renumber accordingly

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2162

House Human Services Committee

☐ Conference Committee

Hearing Date March 5, 2001

Tape Number	Side A	Side B	Meter #
2	x		4038 to end
3	x		1 to 101
Committee Clerk Signature	Connie Easton		

Minutes:

Chairman Price, Vice Chairman Devlin, Rep. Dosch, Rep. Galvin, Rep. Klein, Rep. Pollert, Rep. Porter, Rep. Tieman, Rep. Weiler, Rep. Weisz, Rep. Cleary, Rep. Metcalf, Rep. Niemeier, Rep. Sandvig

Chairman Price: I will open the hearing on SB 2162 and the clerk will read the title.

Glenn Thom - President ND Society for Respiratory Care: (See written testimony).

Rep. Porter: On page 3, section 3, the fees you are charging are being doubled. The board shall establish a fee not in excess of $50, you are going to $100?

Thom: It does not establish the fees, just the limit.

Rep. Porter: What's currently being charged?

Thom: $50 for registered and $35 for certified. This sets a maximum of double the current fees.

Rep. Porter: So you are at the maximum now and you are looking to double the maximum?

Thom: Yes, right now the wording is $50 and that's where we have been since 16 years ago.

Rep. Porter: How many respiratory therapists are practicing in ND?

Thom: Right at 300.

Rep. Porter: Both the certified and the licensed?

Thom: Right.

Rep. Porter: On page two, starting on line 3, it talks about respiratory care is implemented by an order from a licensed physician. According to the act, a nurse practitioner cannot order a breathing treatment.

Thom: An LPN, a registered nurse can, anyone whose scope of practice includes respiratory care can initiate the services.

Rep. Porter: I am not asking who can do it? I am asking who can order it? What this says is only a licensed physician can order it.

Thom: Yes.

Rep. Porter: We have nurse practitioners ordering treatments all over the state and it looks to me that is precluded in this practices act.

Thom: The physicians assistants and licensed nurse practitioners are what is called Dependent Allied Health Care Professionals and their services are rendered under the auspices of the Physician under who they serve. So in essence still the same.

Rep. Porter: That may be the case of a physician assistant, but a nurse practitioner is not under the auspices of a physician, they could open up an office in Downtown Bismarck tomorrow morning if they wanted to.

Thom: So you are saying they are independent. That may require a change. (Asks for assistance from Jim Fleming).

Rep. Porter: The same thing happens on page 5, line 25. It talks about in other settings where respiratory care is provided in accordance with a prescription of a license physician.

Jim Fleming - Attorney Generals Office: This act has not been amended for a long time. It is possible that the last time this act was amended it does not reflect what is actually the case, that nurses assistance can prescribe medications. We may need to do some amendments if this is no longer accurate.

Thom: According to law a Nurse Practitioner has to have a joint agreement with a physician to prescribe any kinds of medication or therapy. This should still be consistent with that.

Dave Peske - ND Medical Association: In reviewing this, we are determining that the crux is if the respiratory gases used must be a medication that is prescribed then that is the tie in. The Nurse Practitioner cannot prescribe a medication unless it is under a collaborative agreement with a physician. If that were an order, an order is interpreted as a prescription by.... In other cases it may not be. I defer to the professional to tell us if all gasses used by respiratory therapists are prescribed medications or if there are other things given by that route that are not prescription.

Chairman Price: Any other questions?

Rep. Weisz: On page five, line 7-11 where you are going to collect all the costs, is that current language now on all the other ones.

Fleming: Boards who have revised their practice act more recently are using similar language, they realize that sometimes in disciplinary action the cost is a real issue. That there are times when you want to settle a case, but a holdup from settling is the fact that the board is going to be looking at his fee. For the cost of the action they want the professional to be responsible for that.

This is not something all boards have, but it is becoming more common. As well as the injunction on page 7.

Rep. Devlin: On that injuncture language on page 7, is that without proof of actual damages sustained by any person, is that normal language?

Fleming: It is common language for the boards who use it, the reason is - let's say for example there is an ad in the paper saying this clinic will soon open and deliver respiratory care, do you want to wait until someone is actually harmed at that place by delivery by an unqualified person or do you want to be able to make a preemptive strike? And get an injunction before they actually hurt somebody? Generally to get in court, you need to have somebody harmed, the idea here is not to wait until somebody is harmed, let's stop it ahead of time. That is the language you find in some sections sprinkled throughout Title 43 on the injunction language.

Chairman Price: Anyone else here in support of SB 2162?

Fleming: I am here asking for a Do Pass on this legislation. Some of the other points not raised yet are technical changes. When a board looks at its practice act and it needs to make some changes, my advice is to make other helpful changes at the same time. While the board was looking at changing its name from a practitioner to a therapist, the board asked for you to authorize specifically the late fees for renewals on page 4. The general rule is a board may only charge a fee as specified by statue. If a practitioner doesn't pay their fee on time, the board incurs an expense to contact the licensee and say get your fee in, until you do, you are not legal to practice. There might be a series of letters that get progressively sharper in tone. The board incurs an expense for that, so they would like specific authority to access that late fee. Also there is some clarification on page 4, line 17-18 as well as line 28. They are talking about having been found by the board to be grossly negligent. On line 28, it is limited to convictions, some times

you have guilty pleas or whatever the board thinks those pleas should be factored in. The fact that they might get a deferred sentence shouldn't affect the fact that they have been convicted on an offense. In addition to these points, I have no additional testimony prepared, but I can answer any questions.

Chairman Price: Any further questions? Any one else in favor? Any opposition. If not, I will close the hearing on SB 2162.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2162 A

House Human Services Committee

☐ Conference Committee

Hearing Date March 13, 2001

Tape Number	Side A	Side B	Meter #
Tape 3	X		1010 to 2445
Committee Clerk Signature	Connie Easton		

Minutes:

COMMITTEE WORK:

CHAIRMAN PRICE: Is there any reason we can't act on Respiratory Care, SB 2162?

VICE CHAIRMAN DEVLIN: I understood that it was a language cleanup. That this is all it was.

REP. WEISZ: There is one little part in page 5, section 3, subsection 6. A little more than a cleanup I guess.

CHAIRMAN PRICE: An also page 7.

REP. WEISZ: Right. Page 5 on section 3, it isn't clear. It just says "the board may impose a fee to reimburse" or whatever. It doesn't say if that, if indeed, it got appealed and the board lost. Is that person still liable for all of the fees even if the board ..... The disciplinary action could be overturned in court and you're still liable for all of the fees. It just seems you can go after someone at will even if it turns out the board wasn't legitimate in what it tried to do.

REP. PORTER: I think it is a move in the right direction. I don't know if that verbage is what we want. If the physician, the podiatrist, or the surgeon won the appeal, then they wouldn't be responsible for the cost of their own prosecution. If they lost, then they would be.

CHAIRMAN PRICE: If they go to court on an appeal and win, is that part of the judgement that they would go for those costs they incurred the first time around on the disciplinary action?

REP. PORTER: I know that the due process is the investigating committee that they have set up, and fron there it is either district court or administrative law judge, and then it is to district court and then to the supreme court. They can take any disciplinary hearing all the way to the North Dakota Supreme Court. Once they leave the administrative hearing process, then they jump into district court.

CHAIRMAN PRICE: Rep. Weisz, do you think it would be part of the appeal to reclaim those costs?

REP. WEISZ: I would assume you would then try to get them back. I would probably try to sue the board to return whatever costs I may have accrued.

REP. PORTER: The Board of Respiratory Therapists has taken their language from already existing language that is in statute. If that is the case where we think we need to change it for this one board, then I also think that we need to amend this bill further to affect every board in the state so that all the language is the same in all of the boards.

CHAIRMAN PRICE: I will have Annette draw up language. (Further committee discussion.)

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2162 A

House Human Services Committee

☐ Conference Committee

Hearing Date March 14, 2001

Tape Number	Side A	Side B	Meter #
Tape 1	X		0 to 2600
Committee Clerk Signature	Connie Easton		

Minutes:

COMMITTEE WORK:

CHAIRMAN PRICE: We have Jim Fleming here from the Attorney General's Office to take a look at SB 2162. You have the proposed amendments on your desk. This is in response to questions raised by Rep. Weisz and others - on page 5 and on page 7.

JIM FLEMING: General Counsel, State Board of Respiratory Care. There were questions on page 5 involving the reimbursement of costs from a disciplinary action, and on page 7 involving the civil remedy of an injunction without proof of damages. Yesterday the concern I heard was that the language proposed in the bill would allow a board to impose a fee if they imposed discipline, even if that discipline is later reversed by the district court. In talking with other attorneys, we all agree that you cannot say that the board's action results in disciplinary action on line 9 if a court later reverses you, because then no action has been imposed. So we all interpret that language as saying if you are reversed on appeal, you don't get to charge them that fee, it

goes away along with whatever discipline the board attempted to impose. I'm not sure this is what the committee intended to change. When I look at them, to me, they say about the same thing.

CHAIRMAN PRICE: This is the language that is in the Medical Examiners, and we just had her pull that out to see what was different.

JIM FLEMING: I think this language is tighter and clearer than the Board of Medical Examiner's language, but they accomplish the same thing. The way I look at it, as an attorney who represents 10 of these boards, the more we can get each practice act to resemble each other, the more they will start to act the same - the better collective knowledge they will generate. I think that is positive for boards to have very similar practice acts.

REP. WEISZ: Based on your amendments which does not reverse on appeal, appeal would mean any appeal that was made to the board. If you appeal the action of the board, it felt that they overturned themselves?

JIM FLEMING: You wouldn't technically call that an appeal. You would call that a reconsideration.

REP. WEISZ: The concern is if the court overrules the board, there wouldn't be disciplinary action - I don't think that is clear. The boards action still resulted in disciplinary action. The court may have overturned whatever penalty the board had prescribed, but they still given the disciplinary action in this agree. I would agree that this amendment would take care of that problem.

JIM FLEMING: The laws aren't just used by lawyers. If this committee feels that the statute of language is better with that in it, I will tell you that next session if I do these again for another

board, I'm going to use the amended language to make it very clear this is what we're talking about.

REP. CLEARY: I have a hard time with this last sentence "when applicable, such person's license may be suspended until costs are paid to the board". It sounds like the days when you threw people in prison until they could pay their debts. How do you pay it if you can't work?

JIM FLEMING: As a board attorney, you can't suspend them until the costs are paid because they are a license holder. If you take away their license, you take away their livelihood and you'll never get paid. I wouldn't like that language either.

VICE CHAIRMAN DEVLIN: "Without proof of actual damages" - I don't like that. Can you explain why its in there?

JIM FLEMING: There are numerous references in Title 43 to not require boards to show damages. The reason is that people who want to get to court to sue somebody can't do it unless they show they have been harmed somehow.

REP. NIEMEIER: So the injunction could be based on just lack of licensure?

JIM FLEMING: That is exactly right.

CHAIRMAN PRICE: Do we have to have "without proof" in the rest of that sentence?

JIM FLEMING: Without that language, you're essentially restating the general powers to seek an injunction. You could just as soon take out all three lines.

REP. WEISZ: An injunction of any kind can only happen if there is damage, and what type of damage in general?

JIM FLEMING: The elements to prove a preliminary or final injunction, you have to show damage from the persons activity that cannot be remedied after the fact through money damages.

CHAIRMAN PRICE: Committee, what do you want to do on page 5, subsection 6?

REP. CLEARY: I move Mr. Fleming's amendment.

REP. NIEMEIER: Second.

CHAIRMAN PRICE: Discussion? All those in favor signify by saying Aye (13 Yes, 0 No, 1 Absent).

REP. CLEARY: I move a Do Pass as amended.

REP. METCALF: Second.

CHAIRMAN PRICE: Discussion?

REP. WEISZ: I will oppose this bill.

REP. CLEARY: They have to be in violation of this chapter. I think this is a good bill and we should pass it. I don't see a bogey man in there.

REP. NIEMEIER: I don't like the idea of waiting for some damage to occur before action is taken. I would rather avoid damage up front.

VICE CHAIRMAN PRICE: I get a little nervous about some of the authority we're giving some of the boards in the state.

CHAIRMAN PRICE: Any one else? (Further discussion.) The clerk will take the roll on a **DO PASS as amended.**

9 YES 4 NO 1 ABSENT CARRIED BY REP. METCALF

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2162 B

House Human Services Committee

☐ Conference Committee

Hearing Date March 26, 2001

Tape Number	Side A	Side B	Meter #
Tape 1	X		3230 to 3970
Committee Clerk Signature	Connie Easton		

Minutes:

COMMITTEE WORK:

CHAIRMAN PRICE: Pull out SB 2162. This is the Respiratory Care. The bill died on the floor. We do have to vote to reconsider before we do anything.

REP. WEISZ: I move we reconsider.

REP. WEILER: Second.

CHAIRMAN PRICE: All those in favor signify by saying Aye (12 Yes, 0 No, 2 Absent).

REP. WEISZ: Moved amendments to delete lines 10-17.

REP. TIEMAN: Second.

CHAIRMAN PRICE: We have a re-amended bill in front of us (12 Yes, 0 No, 2 Absent). What are your wishes?

REP. METCALF: I move a Do Pass as amended.

REP. WEISZ: Second.

CHAIRMAN PRICE: Further discussion? The clerk will call the roll on a **DO PASS as amended.**

12 YES 0 NO 2 ABSENT CARRIED BY REP. METCALF

REPORT OF STANDING COMMITTEE (410)
March 26, 2001 4:41 p.m.

Module No: HR-52-6790
Carrier: Metcalf
Insert LC: 18267.0202 Title: .0400

REPORT OF STANDING COMMITTEE

SB 2162, as engrossed and amended: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2162, as amended, was placed on the Sixth order on the calendar.

In addition to the amendments adopted by the House as printed on page 961 of the House Journal, Senate Bill No. 2162 is further amended as follows:

Page 1, line 2, remove "and 43-42-07"

Page 1, line 3, remove "; and to provide a penalty"

Page 7, remove lines 10 through 17

Renumber accordingly

NORTH DAKOTA SOCIETY for RESPIRATORY CARE

NDSRC

"A BREATH OF FRESH CARE"

January 16, 2001

Testimony of:

Glenn Thom, BS, RRT, President, North Dakota Society for Respiratory Care (NDSRC).

Regarding:

Senate Bill No. 2162

I am President of the North Dakota Society for Respiratory Care. This group is the professional counterpart to the respiratory care licensing board. I worked closely with the licensing board on the changes in this amendment. The changes presented in this bill are designed to improve clarity and outdated language. There are no changes in the respiratory care scope of practice in this amendment.

Synopsis of changes:

"...care practitioner" has been replaced with "therapist" to conform to nationally-recognized certification nomenclature.

Page 2, lines 17 - 18: This language assures that only therapists who are graduates of respiratory care training programs will administer respiratory health care to North Dakota patients (this does not preclude other sufficiently qualified and licensed professionals from giving the same care).

Page 2, lines 28 - 30: Composition of the licensing board allows for the respiratory therapists to be either certified or registered vs. specific numbers of each. This allows flexibility in assuring appropriate, state-wide representation on the board.

Page 3, lines 12 - 13: This has been deleted as ineffective wording. The NDSRC provides the selection list to the Governor for any position vacancies (except the physician position).

Page 3, lines 22 and 29: Specific licensing fee dollar amounts have been deleted in favor of inclusion in the board's administrative rules.

The balance of changes are technical and are as advised by the licensing board's legal counsel.

The NDSRC represents three-quarters of practicing licensed respiratory therapists in the state of North Dakota. The Board of Directors for NDSRC urges favorable recommendation of Senate Bill No. 2162 by this Committee. THANK YOU FOR YOUR TIME AND CONSIDERATION.

Prepared for Senate IB&L by
James C. Fleming, Counsel
State Board of Respiratory Care

PROPOSED AMENDMENTS TO SENATE BILL NO. 2162

Page 3, line 22, remove the overstrike over "~~not in excess of~~", after "~~fifty~~" insert "one hundred", and remove the overstrike over "~~dollars~~"

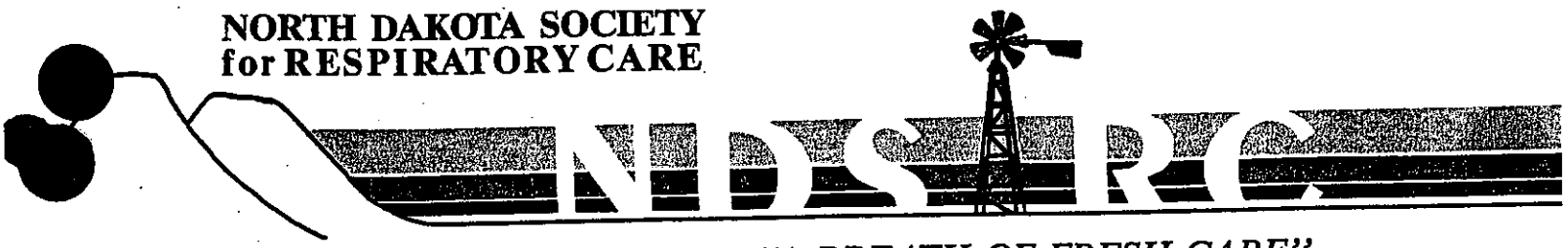
Page 3, line 29, remove the overstrike over "~~not in excess of~~", after "~~thirty five~~" insert "seventy", and remove the overstrike over "~~dollars~~"

Page 4, line 6, remove the overstrike over "~~not in excess of~~", after "~~thirty five~~" insert "seventy", and remove the overstrike over "~~dollars~~"

Page 4, line 8, after "fee" insert "not in excess of twenty-five dollars"

Renumber accordingly

NORTH DAKOTA SOCIETY for RESPIRATORY CARE



"A BREATH OF FRESH CARE"

March 5, 2001

Testimony of:

Glenn Thom, BS, MMgt, RRT, President North Dakota society for Respiratory Care, (NDSRC).

Regarding:

Senate Bill No. 2162, Engrossed.

As president of the NDSRC, I represent the professional counterpart to the respiratory care licensing board. I worked closely with the licensing board on the changes in this amendment. The changes presented in this bill are designed to improve clarity and outdated language. There are no changes in this amendment for the scope of practice in respiratory care.

Synopsis of changes:

Throughout the practice act, "...care practitioner" has been replaced with "therapist" to conform to nationally-recognized certification nomenclature.

Page 2, lines 14 and 15 - "respiratory therapist" includes both certified and registered respiratory therapists for the purpose of licensure.

Page 2, lines 17 and 18 - This language assures that only therapists who are graduates of respiratory care training programs will administer respiratory health care to patients (this does not preclude other sufficiently qualified and licensed professionals from giving the same care).

Page 3, lines 12 and 13 - This wording has been deleted. Is it unnecessary, since the NDSRC provides the licensure board selection list to the Governor for any position vacancies (except the physician position).

Page 3, lines 22 and 29 - Specific licensing fee dollar amounts have been deleted in favor of inclusion in the board's administrative rules. This is consistent with the majority of other North Dakota licensure statute.

Page 5, lines 7 through 11 - Provision is made here for the board to recover expenses incurred in disciplinary actions.

Page 6, lines 15 and 16 - Response is made here to the changes made in national credentialing procedures. Specific testing dates are no longer utilized since testing has been computerized.

The balance of changes are technical and are as per the licensing board's legal counsel.

The NDSRC represents practicing licensed respiratory therapists in the state of North Dakota. The Board of Directors of the NDSRC urges favorable consideration of SB 2162 by this Committee. THANK YOU FOR YOUR TIME AND CONSIDERATION.

State Respiratory Care Licensing Fees

STATE	CRT	RRT	# THERAPISTS	ANNUAL LICENSING REVENUE
AL	NO ACT			
AK	NO ACT			
CO	NO ACT			
WY	NO ACT			
CA	?	?	20700	
MD	$68	$68	?	
DC	$68	$68	?	
VT	NO ACT			
HI	NO ACT			
NV	NO ACT			
NC	NO ACT			
MI	NO ACT			
SD	$20	$20	318	$6,360
DE	$25	$25	300	$7,500
MT	$20	$20	480	$9,600
UT	$15	$15	770	$11,550
OK	$38	$38	1426	$15,250
ND	$35	$50	350	$17,500
RI	$40	$40	540	$21,600
ID	$40	$40	550	$22,000
NE	$26	$26	937	$24,362
NH	$50	$50	500	$25,000
AR	$25	$25	1258	$31,450
IN	$10	$10	3201	$32,010
NM	$53	$53	616	$32,648
IA	$25	$25	1512	$37,800
WI	$21	$21	2508	$52,668
KS	$40	$40	1462	$58,480
WA	$30	$30	2015	$60,450
CT	$50	$50	1284	$64,200
KY	$25	$25	2701	$67,525
VA	$40	$40	1707	$68,280
SC	$40	$40	1805	$72,200
ME	$68	$68	555	$73,116
MO	$50	$50	1553	$77,650
MA	$19	$19	4313	$81,947
MS	$50	$50	1778	$88,900
LA	$17	$25	3684	$92,100
GA	$25	$25	4000	$100,000
WV	$42	$42	2508	$105,336
OR	$100	$100	1089	$108,900
MN	$90	$90	1271	$114,390
TN	$35	$35	3489	$122,115
AZ	$43	$43	4100	$176,300
OH	$35	$35	5729	$200,515
IL	$60	$60	3430	$205,800
PA	$40	$40	5729	$229,160
NJ	$90	$90	2763	$248,670
NY	$30	$52	5976	$310,752
FL	$38	$38	8596	$326,648
TX	$45	$45	9565	$430,425

North Dakota Board of Respiratory Care

Information Regarding:

Christopher Albertson

and

Presentation Medical Center

old law

Table of Contents

PROCEDURAL HISTORY

Promulgation of the North Dakota State Respiratory Care Practice Act	March 29, 1985
Appointment of Board Members	October, 1985
First License Application Mailing	July, 1986
Expiration of Grandfather Clause	December 31, 1988
Respiratory Care Practice Act revised	September 1, 1995
Revised Rules Promulgation of the North Dakota State Respiratory Care Practice Act	July 1, 1996

INTRODUCTION

The information which follows is an accumulation of rules and regulations set forth by the North Dakota State Board of Respiratory Care.

The Respiratory Care Practice Act governs the North Dakota State Board of Respiratory Care. It governs the practice of respiratory care and it governs the licensure of Registered Respiratory Care Practitioners, Certified Respiratory Care Practitioners and Temporarily Certified Respiratory Care Practitioners.

The Standards of Practice are enforceable by law and under the jurisdiction of Section 12.1-01-04 and 12.1-33-02.1

The North Dakota State Respiratory Care Practice Act is enforceable by law under the jurisdiction of the Legislative Assembly of the State of North Dakota and may be amended upon presentation and an affirmative vote of the Legislative Assembly.

CHAPTER 43-42
RESPIRATORY CARE PRACTITIONERS

43-42-01. Definitions. In this chapter, unless the context otherwise requires:

1. "Board" means the state board of respiratory care.
2. "Bona fide respiratory care training program" means a program of respiratory care education which is accredited by the committee on accreditation of allied health educational programs, or the committee's successor organization.
3. "Certification examination" means the examination for respiratory therapy technicians administered by the national board for respiratory care.
4. "Certified respiratory care practitioner" means a person licensed by the board to practice respiratory care under the direction or supervision of a physician or registered respiratory care practitioner.
5. "National board for respiratory care" means the body issuing credentials for the respiratory care profession, or the board's successor organization.
6. "Registered respiratory care practitioner" means a person licensed by the board to practice respiratory care.
7. "Registry examination" means the examination for respiratory therapists administered by the national board for respiratory care.
8. "Respiratory care" means the health specialty involving the treatment, management, control, and care of patients with deficiencies and abnormalities of the cardiorespiratory systems. Respiratory care is implemented on an order from a licensed physician, and includes the use of medical gases, air and oxygen administering apparatuses, environmental control systems, humidification and aerosols, drugs and medications, apparatuses for cardiorespiratory support and control, postural drainage, chest percussion and vibration and breathing exercises, respiratory rehabilitation, assistance with cardiopulmonary resuscitation, maintenance of natural and mechanical airways, and insertion and maintenance of artificial airways. The term also includes testing techniques to assist in diagnosis, monitoring, treatment, and research, including the measurement of cardiorespiratory volumes, pressures and flows, and the drawing and analyzing of samples of arterial, capillary, and venous blood.

old law

9. "Respiratory therapy" means respiratory care.
10. "Temporary respiratory care practitioner" means any individual who is enrolled in or has successfully completed a bona fide respiratory care training program and is licensed by the board to practice respiratory care under the supervision or direction of either a physician, certified respiratory care practitioner, or registered respiratory care practitioner.

Sources: S.L. 1985, ch. 493, § 1; 1995, ch. 420, § 1.

Effective Date.
The 1995 amendment of this section by section 1 of chapter 420, S.L. 1995 became effective July 1, 1995, pursuant to N.D. Const., Art. IV, § 13.

43-42-02. State board of respiratory care.

1. The state board of respiratory care is responsible for the enforcement and administration of this chapter and for the adoption of any rules necessary to govern the practice of respiratory care in this state.
2. The board consists of seven members appointed by the governor. Two members must be registered respiratory care practitioners, chosen from a list of four registered respiratory care practitioners and four certified respiratory care practitioners supplied to the governor by the North Dakota society for respiratory care. One member must be a physician chosen from a list of two physicians supplied to the governor by the North Dakota medical association. The governor shall appoint two members to be representatives of the general public. Members are appointed for terms of three years. Each member holds office until the member's successor is duly appointed and qualified. A vacancy in the office of any member may be filled for the unexpired term only. No member may serve more than two successive complete terms.
3. The board shall annually select a chairman from among its members. The board shall meet at least twice each year and also shall meet upon the call of the chairman
4. The board shall consult with the North Dakota society for respiratory care before adopting any rules.

Sources: S.L. 1985, ch. 493, § 2; 1995, ch. 420, § 2.

Effective Date.
The 1995 amendment of this section by section 2 of chapter 420, S.L. 1995 became effective July 1, 1995, pursuant to N.D. Const., Art. IV, § 13.

43-42-03. Respiratory care practitioner licensing – Fees.

1. The board shall license as a registered respiratory care practitioner any applicant whom the board determines to be qualified to perform the duties of a registered respiratory care practitioner. In making this determination, the board shall require evidence that the applicant has successfully completed a bona fide respiratory care training program and has passed the registry examination. The board shall establish fees not in excess of fifty dollars for the issuance and renewal of a registered respiratory care practitioner license.
2. The board shall license as a certified respiratory care practitioner any applicant whom the board determines to be qualified to perform the duties of a certified respiratory care practitioner. In making this determination, the board shall require evidence that the applicant has successfully completed a bona fide respiratory care training program and has passed the certification examination. The board shall establish fees not in excess of thirty-five dollars for the issuance and renewal of a certified respiratory care practitioner license.
3. The board shall license as a temporary respiratory care practitioner any applicant whom the board determines to be qualified to perform duties as a temporary respiratory care practitioner. In making this determination, the board shall require evidence that the applicant is enrolled in or has successfully completed a bona fide respiratory care training program. The board shall establish fees not in excess of thirty-five dollars for the issuance and renewal of a temporary respiratory care practitioner license.
4. The board shall refuse to license any applicant or shall suspend or revoke any license after proper notice and a hearing, if the applicant:
   a. Is not qualified or competent to perform the duties of a registered respiratory care practitioner, a certified respiratory care practitioner, or a temporary respiratory care practitioner.
   b. Has attempted to obtain or has obtained licensure under this chapter by fraud or material misrepresentation.
   c. Has been found guilty by the board of gross negligence as a registered respiratory care practitioner, certified respiratory care practitioner, or a temporary respiratory care practitioner.
   d. Has engaged in conduct as a registered respiratory care practitioner, certified respiratory care practitioner, or a temporary respiratory care practitioner which is unethical, unprofessional, or detrimental to the benefit of the public.
   e. Has failed to demonstrate satisfactory completion of such continuing courses of study in respiratory care as the board may require.
   f. Has been convicted of an offense, as defined by section 12.1-01-04, determined by the board to have a direct bearing upon that individual's

ability to practice respiratory care and is not sufficiently rehabilitated as determined by the board in accordance with section 12.1-33-02.1.

g. Is habitually drunk or is addicted to the use of a controlled substance as defined in chapter 19-03.1.

h. Has been declared mentally incompetent by a court of competent jurisdiction, and who has not thereafter been lawfully declared competent.

5. Licenses issued under this chapter expire annually, but may be renewed upon application to the board and payment of the annual renewal fee established by the board. Licenses which have expired, been suspended, or been revoked may be renewed or reissued upon satisfaction of any conditions that may be established by the board, and after payment of a fee established by the board.

6. The board shall require as a condition of renewal and relicensure that the applicant demonstrate satisfactory completion of continuing courses of study in respiratory care.

Source: S.L. 1985, ch. 493, § 3; 1995, ch. 420, § 3.

Effective Date.
The 1995 amendment of this section by section 4 of chapter 420, S.L. 1995 became effective July 1, 1995, pursuant to N.D. Const., Art. IV, § 13.

43-42-04. Respiratory care practice. The practice of respiratory care may be performed in hospitals, as ambulatory or in-home care, and in other settings where respiratory care is provided in accordance with a prescription of a licensed physician. In addition, respiratory care may be provided during the transportation of a patient, and under any circumstances where an epidemic or public disaster necessitates respiratory care. No person may practice, nor represent oneself as able to practice, as a registered respiratory care practitioner without being licensed as a registered respiratory care practitioner, or as a certified respiratory care practitioner without being licensed as a certified respiratory care practitioner, in accordance with this chapter.

Source: S.L. 1985, ch. 493, § 4.

43-42-05. Application of chapter

1. This chapter does not prohibit a person enrolled in a bona fide respiratory care training program from performing those duties essential for completion of a student's clinical service; provided, that the duties are performed under the supervision or direction of a physician or registered respiratory care practitioner and the person is identified as a "student respiratory care practitioner".

2. A graduate of a bona fide respiratory care training program, who has applied for licensure under this chapter may practice respiratory care under the supervision or direction of a physician or a registered or certified respiratory care practitioner; provided, that the graduate holds a temporary respiratory care practitioner's license and is identified as a "graduate respiratory care practitioner". An applicant shall take one of the next three immediately available entry level certification examinations following eligibility. Failure to pass any examination that is taken results in termination of the privileges provided under this subsection.

3. If examinations prepared by the national board for respiratory care are no longer available or become unacceptable to the board, the board may develop, approve, and use examinations for the licensure of registered respiratory care practitioners and certified respiratory care practitioners.

4. This chapter does not prevent a licensed and qualified member of another health care profession from performing any of the duties of a registered respiratory care practitioner or a certified respiratory care practitioner or certified respiratory care practitioner.

5. This chapter does not prohibit self-care by a patient or the gratuitous care by a friend or member of the family who does not represent or hold oneself out to be a registered or certified respiratory care practitioner.

6. This chapter does not prohibit a registered or certified respiratory care practitioner from performing advances in the art or techniques of respiratory care learned through formal or specialized training.

Source: S.L. 1985, ch. 493, § 5; 1995, ch. 420, § 5.

Effective Date.
The 1995 amendment of this section by section 4 of chapter 420, S.L. 1995 became effective July 1, 1995, pursuant to N.D. Const., Art. IV, § 13.

43-42-06. Reciprocity. An applicant for licensure under this chapter may be granted a license upon satisfactory proof to the board that the applicant is licensed to practice respiratory care under the laws of another state which impose substantially the same requirements as this chapter.

Source: S.L. 1985, ch. 493, § 6.

43-42-07. Penalty. Any person who violates this chapter or any rules adopted under this chapter is guilty of an infraction.

Source: S.L. 1985, ch. 493, § 7.

ARTICLE 105-01

GENERAL ADMINISTRATION

CHAPTER 105-01-01
ORGANIZATION OF THE BOARD

105-01-01-01. Organization of the board of respiratory care.

1. **History and function.** The 1985 legislative assembly passed legislation to license respiratory care practitioners, codified as North Dakota Century Code chapter 43-42. That chapter requires the governor to appoint a respiratory care examining board. It is the responsibility of that board to license respiratory care practitioners within the state of North Dakota.
2. **Board membership.** The board consists of seven members appointed by the governor. Two members are registered respiratory care practitioners, two members are certified respiratory care practitioners, one member is a physician, and two members are representatives of the general public. Each board member serves a term of three years. No member may serve more than two successive terms on the board.
3. **Officers.** The board elects a chairperson and officers annually.
4. **Inquiries.** Inquiries regarding board activities may be addressed to:

   North Dakota State Board of Respiratory Care
   P.O. Box 2223
   Bismarck, North Dakota 58502-2223

   or

   North Dakota State Board of Respiratory Care
   c/o Division of Legal Services
   North Dakota State Department of Health
   P.O. Box 5520
   1200 Missouri Avenue
   Bismarck, North Dakota 58502-5520

History: Effective September 1, 1996.
General Authority: NDCC 28-32-02.1
Law Implemented: NDCC 43-42-02

ARTICLE 105-02

RESPIRATORY CARE PRACTITIONER LICENSURE

CHAPTER 105-02-01
INITIAL LICENSURE AND RENEWALS

105-02-01-01. Initial licensure application. An application for a license to practice respiratory care must be made to the state respiratory care examining board on forms approved by the board. The application must contain such information as the board may reasonably require.

1. Each application for a license must be accompanied by:
   a. The prescribed fee.
   b. An official transcript, certificate, or diploma verifying completion of an academic program in respiratory care recognized by the commission on allied health, education, and accreditation or its successor.
   c. A photocopy of original national board of respiratory care registry or certification certificate.
2. All applications must be signed by the applicant and notarized.
3. Any new applicant who has not worked as a registered respiratory therapist or certified respiratory therapy technician for three years will require entry level recredentialing.
4. The board may request such additional information or clarification of information provided in the application as it deems necessary.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

105-02-01-02. Licensure renewal. Licenses are renewable annually.

1. Applications for renewal of license will be mailed by the board on or before December first to all licenseholders. Fees are payable to the board on or before December thirty-first of the year preceding the renewal year.
2. An application for renewal of license must be signed by the applicant and notarized.
3. License fees are considered delinquent and a late charge is assessed if the renewal application is not postmarked on or before December thirty-first of the year preceding the renewal year.
4. A license is considered as a renewal if renewal is sought within three years from the date of the last issuance. After three years any application is considered a new application.
5. Renewal of license must be mailed by January twenty-fourth of the renewal year if the renewal request is complete and postmarked on or before December thirty-first.
6. All late renewal applications will be audited and proof of continuing education units is required.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-43-03

105-02-01-03. Fees. The board has adopted the following fee payment schedule:

1. Initial license fee and license fee for renewal are:
   Registered respiratory care practitioner - $50.00
   Certified respiratory care practitioner - $35.00
   Temporary respiratory care practitioner - $35.00
2. Late fees in the amount of ten dollars must be charged for all applications received by the board which are postmarked after December thirty-first of the year prior to the year of renewal.
3. Respiratory care practitioners who initially become licensed after November first of the year are exempt from licensure renewal for a period of one year. There is no proration of fees.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

105-02-01-04. Continuing education. To renew a license, a person must present proof of having attended or acquired at least ten clock hours of continuing education approved by the board. If any licensee allows the licensee's license to lapse for a period of more than one year, the licensee must be required to submit proof of attendance or acquisition of at least ten clock hours of continuing education for each year that the license has lapsed up to a period of three years.

Continuing education for licensure renewal must be completed in the calendar year prior to the year for which licensure is sought. Under extraordinary circumstances, the board may consider a request for continuing education hours accrued in the same calendar year.

Continuing education courses must relate to or increase the professional competence of the attendee. This determination will be made by the board through approval of requested courses. The board has the authority to accept programs sponsored by a local, state, regional, national, international, scientific, or professional organization appropriate to provide continuing education (i.e., AARC, NDSRC, AMA, ALA, AHA, etc.).

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

105-02-01-05. Passing score. The successful passing of a national examination means obtaining a score equal to or greater than the passing score established by the national board for respiratory care or its successor which is in effect at the time of the administration of the test.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

105-02-01-06. Qualified applicant.

1. In licensing a registered respiratory care practitioner or a certified respiratory care practitioner, "qualified" means trained and possessing the credential issued by the recognized testing or certification body of the profession.
2. In licensing a temporary respiratory care practitioner, the applicant will be deemed qualified upon meeting the eligibility requirements of the CRTT entry level exam as required and administered by the national board for respiratory care or its successor organization.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

ARTICLE 105-03

PRACTICE OF RESPIRATORY CARE

CHAPTER 105-03-01
RESPIRATORY CARE PRACTICE

105-03-01-01. Display of license. Every person licensed under North Dakota Century Code chapter 43-42 to practice as a registered respiratory care practitioner or certified respiratory care practitioner shall maintain such license or certificate in the office, department, business, or place in which the person practices, where, upon request, it is available to the public.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

105-03-01-02. Home medical equipment and delivery. North Dakota Century Code chapter 43-42 prohibits the setup and instruction of medical devices related to the practice of respiratory care, gases, and equipment by a nonlicensed health care professional. The delivery and maintenance of medical devices related to the practice of respiratory care, gases, and equipment by a nonlicensed health care professional for the expressed purpose of self-care by a patient or gratuitous care by a friend or family member in the home or extended care facility is permitted.

This maintenance or delivery by the nonlicensed person does not include performing patient assessment, having direct patient contact or patient care relating to home respiratory care, or representing oneself as a certified or registered respiratory care practitioner.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

CHAPTER 105-03-02
CODE OF ETHICS

105-03-02-01. Code of ethics. The board has adopted and incorporated into these rules by reference the American association for respiratory care's statement of ethics and professional conduct as amended in 1994.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

105-03-02-02. Grievance procedure. Grievances must be processed in accordance with the provisions of North Dakota Century Code chapter 28-32.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

105-03-02-03. Reporting disciplinary action. The board shall report all disciplinary action taken by it to the national board for respiratory care.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

APPENDIX A

CODE OF ETHICS

Statement of Ethics and Professional Conduct

In the conduct of their professional activities the Respiratory Care Practitioner shall be bound by the following ethical and professional principles. Respiratory Care Practitioners shall:

Demonstrate behavior that reflects integrity, supports objectivity, and fosters trust in the profession and its professionals.

Actively maintain and continually improve their professional competence, and represent it accurately.

Perform only those procedures or functions in which they are individually competent and which are within the scope of accepted and responsible practice.

Respect and protect the legal and personal rights of patients they treat, including the right to informed consent and refusal of treatment.

Divulge no confidential information regarding any patient or family unless disclosure is required for responsible performance of duty or required by law.

Provide care without discrimination on any basis, with respect for the rights and dignity of all individuals.

Promote disease prevention and wellness.

Refuse to participate in illegal or unethical acts, and refuse to conceal illegal, unethical, or incompetent acts of others.

Follow sound scientific procedures and ethical principles in research.

Comply with state or federal laws which govern and relate to their practice.

Avoid any form of conduct that creates a conflict of interest, and follow the principles of ethical business behavior.

Promote the positive evolution of the profession, and health care in general, through improvement of the access, efficacy, and cost of patient care.

Refrain from indiscriminate and unnecessary use of resources, both economic and natural, in their practice.

APPENDIX B

NORTH DAKOTA CENTURY CODE
12.1-01-04
CRIMINAL CODE: GENERAL DEFINITIONS

12.1-01-04. General definitions. As used in this title, unless a different meaning plainly is required:

1. "Act" or "action" means a bodily movement, whether voluntary or involuntary.
2. "Acted", "acts", and"actions" include, where relevant, "omitted to act" and "omissions to act".
3. "Actor" includes, where relevant, a person guilty of an omission.
4. "Bodily injury" means any impairment of physical condition, including physical pain.
5. "Court" means any of the following courts: the supreme court, a district court, a county court, and where relevant, a municipal court.
6. "Dangerous weapon" means, but is not limited to, any switchblade or gravity knife, machete, scimitar, stiletto, sword, or dagger; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slingshot; any bow and arrow, crossbow, or spear; any weapon which will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas including any such weapon, loaded or unloaded, commonly referred to as a b.b. gun, air rifle, or CO_2 gun; and any noxious liquid, gas, or substance.
7. "Destructive device" means any explosive, incendiary or poison gas bomb, grenade, mine, rocket, missile, or similar device.
8. "Explosive" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses (other than electric circuit breakers), detonators and other detonating agents, smokeless powders, and any chemical compounds, mechanical mixture, or other ingredients in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, or material or any part thereof may cause an explosion.
9. Repealed by S.L. 1975 ch. 116, 33.
10. "Firearm" means any weapon which will expel, or is readily capable of expelling, a projectile by the action of any explosive and includes any such weapon, loaded or unloaded, commonly referred to as a pistol, revolver, rifle, gun, machine gun, shotgun, bazooka, or cannon.
11. "Force" means physical action.

12. "Government" means:
    a. The government of this state or any political subdivision of this state;
    b. Any agency, subdivision, or department of the foregoing, including the executive, legislative, and judicial branches;
    c. Any corporation or other entity established by law to carry on any governmental function; and
    d. Any commission, corporation, or agency established by statute, compact, or contract between or among governments for the execution of intergovernmental programs.
13. "Government function" includes any activity which one or more public servants are legally authorized to undertake on behalf of government.
14. "Harm" means loss, disadvantage, or injury to the person affected, and includes loss, disadvantage, or injury to any other person in whose welfare he is interested.
15. "Included offense" means an offense:
    a. Which is established by proof of the same or less than all the facts required to establish commission of the offense charged;
    b. Which consists of criminal facilitation of or an attempt or solicitation to commit the offense charged; or
    c. Which differed from the offense charged only in that it constitutes a less serious harm or risk of harm to the same person, property, or public interest, or because a lesser degree of culpability suffices to establish its commission.
16. "Includes" should be read as if the phrase "but not limited to" were also set forth.
17. "Law enforcement officer" or "peace officer" means a public servant authorized by law or by a government agency or branch to enforce the law and to conduct or engage in investigations or prosecutions for violations of law.
18. "Local" means of or pertaining to any political subdivision of the state.
19. Repealed by S.L. 1975, ch. 116, 33.
20. "Offense" means conduct for which a term of imprisonment or a fine is authorized by statute after conviction.
21. "Official action" includes a decision, opinion, recommendation, vote, or other exercise of discretion by any governmental agency.
22. "Official proceeding" means a proceeding heard or which may be heard before any government agency or branch or public servant authorized to take evidence under oath, including any referee, hearing examiner, commissioner, notary, or other person taking testimony or a deposition in connection with any such proceeding.
23. "Omission" means a failure to act.
24. As used in this title and in sections outside this title which defines offenses, "person" includes, where relevant, a corporation, partnership, unin-

corporated association, or other legal entity. When used to designate a party whose property may be the subject of action constituting an offense, the word " person" includes a government which may lawfully own property in this state.

25. "Property" includes both real and personal property.
26. "Public servant" as used in this title and in any statute outside this title which defines an offense means any officer or employee of government, including law enforcement officers, whether elected or appointed, and any person participating in the performance of a governmental function, but the term does not include witnesses.
27. "Serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, unconsciousness, extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ.
28. "Signature" includes any name, mark, or sign written or affixed with intent to authenticate any instrument or writing.
29. "Thing of value" or "thing of pecuniary value" means a thing of value in the form of money, tangible or intangible property, commercial interests, or anything else the primary significance of which is economic gain to the recipient.
30. "Writing" includes printing, typewriting, and copying.
31. "Political subdivision" as used in this title and in any statute outside this title which defines an offense means a county, city, school district, township, and any other local governmental entity created by law.

Words used in the singular include the plural, and the plural the singular. Words in the masculine gender include the feminine and neuter genders. Words used in the present tense include the future tense, but exclude the past tense.

APPENDIX C

NORTH DAKOTA CENTURY CODE 12.1-33-02.1 PENALTIES AND SENTENCING

12.1-33-02.1. Prior conviction of a crime not bar to state licensures –Exceptions.

1. A person shall not be disqualified to practice, pursue, or engage in any occupation, trade, or profession for which a license, permit, certificate, or registration is required from any state agency, board, commission, or department solely because of prior conviction of an offense. However, a person may be denied a license, permit, certificate, or registration because of prior conviction of an offense if it is determined that such person has not been sufficiently rehabilitated, or that the offense has a direct bearing upon a person's ability to serve the public in the specific occupation, trade, or profession.
2. A state agency, board, commission, or department shall consider the following in determining sufficient rehabilitation:
   a. The nature of the offense and whether it has a direct bearing upon the qualifications, functions, or duties of the specific occupation, trade, or profession.
   b. Information pertaining to the degree of rehabilitation of the convicted person.
   c. The time elapsed since the conviction or release. Completion of probation or parole, or a period of five years after final discharge or release from any term of imprisonment without subsequent conviction shall be deemed prima facie evidence of sufficient rehabilitation.
3. If conviction of an offense is used in whole or part as a basis for disqualification of a person, such disqualification shall be in writing and shall specifically state the evidence presented and the reasons for disqualification. A copy of such disqualification shall be sent to the applicant by certified mail.
4. A person desiring to appeal from a final decision by any state agency, board, commission, or department shall follow the procedure provided by the chapter of this code regulating the specific occupation, trade, or profession. If no appeal or review procedure is approved by such chapter, an appeal may be taken in accordance with chapter 28-32, except for attorneys disbarred or suspended under chapter 27-14.

Source: S.L. 1977, ch. 130, § 5.

New Law

NORTH DAKOTA STATE RESPIRATORY CARE HANDBOOK

Law
Rules
Information

North Dakota State Board of Respiratory Care
P.O. Box 2223
Bismarck, North Dakota 58502

Table of Contents

PROCEDURAL HISTORY

Promulgation of the North Dakota State Respiratory Care Practice Act	March 29, 1985
Appointment of Board Members	October, 1985
First License Application Mailing	July, 1986
Expiration of Grandfather Clause	December 31, 1988
Respiratory Care Practice Act revised	September 1, 1995
Revised Rules Promulgation of the North Dakota State Respiratory Care Practice Act	July 1, 1996
Revised Rules Promulgation of the North Dakota State Respiratory Care Practice Act	January 1, 2001

INTRODUCTION

The information which follows is an accumulation of rules and regulations set forth by the North Dakota State Board of Respiratory Care.

The Respiratory Care Practice Act governs the North Dakota State Board of Respiratory Care. It governs the practice of respiratory care and it governs the licensure of Registered Respiratory Therapists, Certified Respiratory Therapists and Temporarily Certified Respiratory Therapists.

~~The~~ Standards of Practice are enforceable by law and under the jurisdiction of Section 12.1-01-04 and 12.1-33-02.1

The North Dakota State Respiratory Care Practice Act is enforceable by law under the jurisdiction of the Legislative Assembly of the State of North Dakota and may be amended upon presentation and an affirmative vote of the Legislative Assembly.

CHAPTER 43-42
RESPIRATORY CARE PRACTITIONERS

43-42-01. Definitions. In this chapter, unless the context otherwise requires:

1. "Board" means the state board of respiratory care.
2. "Bona fide respiratory care training program" means a program of respiratory care education which is accredited by the commission on accreditation of allied health educational programs, or the commission's successor organization.
3. "Certification examination" means the entry level examination for respiratory therapists administered by the national board for respiratory care.
4. "Certified respiratory therapist" means a person licensed by the board to practice respiratory care under the direction or supervision of a physician or registered respiratory therapist.
5. "National board for respiratory care" means the body issuing credentials for the respiratory care profession, or the board's successor organization.
6. "Registered respiratory therapist" means a person licensed by the board to practice respiratory care.
7. "Registry examination" means the advanced level examination for respiratory therapists administered by the national board for respiratory care.
8. "Respiratory care" means the health specialty involving the treatment, management, control, and care of patients with deficiencies and abnormalities of the cardiorespiratory systems. Respiratory care is implemented on an order from a licensed physician, and includes the use of medical gases, air and oxygen administering apparatuses, environmental control systems, humidification and aerosols, drugs and medications, apparatuses for cardiorespiratory support and control, postural drainage, chest percussion and vibration and breathing exercises, pulmonary rehabilitation, assistance with cardiopulmonary resuscitation, maintenance of natural and artificial airways, and insertion of artificial airways. The term also includes testing techniques to assist in diagnosis, monitoring, treatment, and research, including the measurement of cardiorespiratory volumes, pressures and flows, and the drawing and analyzing of samples of arterial, capillary, and venous blood.
9. "Respiratory therapist" means a certified respiratory therapist or a registered respiratory therapist.
10. "Respiratory therapy" means respiratory care.
11. "Temporary respiratory therapist" means any individual who has successfully completed a bona fide respiratory care training program and is licensed by the board to practice respiratory care under the supervision or direction of either a physician, certified respiratory therapist, or registered respiratory therapist.

New law

43-42-02. State board of respiratory care.

1. The state board of respiratory care is responsible for the enforcement and administration of this chapter and for the adoption of any rules necessary to govern the practice of respiratory care in this state.
2. The board consists of seven members appointed by the governor. Four members must be respiratory therapists, chosen from a list of eight respiratory therapists supplied to the governor by the North Dakota society for respiratory care. One member must be a physician chosen from a list of two physicians supplied to the governor by the North Dakota medical association. The governor shall appoint two members to be representatives of the general public. Members are appointed for terms of three years. Each member holds office until the member's successor is duly appointed and qualified. A vacancy in the office of any member may be filled for the unexpired term only. No member may serve more than two successive complete terms.
3. The board shall annually select a chairman from among its members. The board shall meet at least twice each year and also shall meet upon the call of the chairman.

43-42-03. Respiratory therapist licensing - Fees.

1. The board shall license as a registered respiratory therapist any applicant whom the board determines to be qualified to perform the duties of a registered respiratory therapist. In making this determination, the board shall require evidence that the applicant has successfully completed a bona fide respiratory care training program and has passed the registry examination. The board shall establish fees not in excess of one hundred dollars for the issuance and renewal of a registered respiratory therapist license.
2. The board shall license as a certified respiratory therapist any applicant whom the board determines to be qualified to perform the duties of a certified respiratory therapist. In making this determination, the board shall require evidence that the applicant has successfully completed a bona fide respiratory care training program and has passed the certification examination. The board shall establish fees not in excess of seventy dollars for the issuance and renewal of a certified respiratory therapist license.
3. The board shall license as a temporary respiratory therapist any applicant whom the board determines to be qualified to perform duties as a temporary respiratory therapist. In making this determination, the board shall require evidence that the applicant has successfully completed a bona fide respiratory care training program. The board shall establish fees not in excess of seventy dollars for the issuance of a temporary respiratory therapist license.
4. The board may assess a late fee not in excess of twenty-five dollars for all license renewal applications that are postmarked after December thirty-first of the year prior to the year of renewal.
5. The board shall refuse to license any applicant or shall suspend or revoke any license after proper notice and a hearing, if the applicant:

   a. Is not qualified or competent to perform the duties of a registered respiratory therapist, a certified respiratory therapist, or a temporary respiratory therapist.
   b. Has attempted to obtain or has obtained licensure under this chapter by fraud or material misrepresentation.
   c. Has been found by the board to have been grossly negligent as a registered respiratory therapist, certified respiratory therapist, or a temporary respiratory therapist.
   d. Has engaged in conduct as a registered respiratory therapist, certified respiratory therapist, or a temporary respiratory therapist which is unethical, unprofessional, or detrimental to the health of the public.
   e. Has failed to demonstrate satisfactory completion of such continuing courses of study in respiratory care as the board may require.
   f. Has been convicted or adjudged guilty of an offense, as defined by section 12.1-01-04, determined by the board to have a direct bearing upon that individual's ability to practice respiratory care and is not sufficiently rehabilitated as determined by the board in accordance with section 12.1-33-02.1.
   g. Is habitually drunk or is addicted to the use of a controlled substance as defined in chapter 19-03.1.
   h. Has been declared mentally incompetent by a court of competent jurisdiction, and who has not thereafter been lawfully declared competent.
6. The board may impose a fee on any person subject to regulation under this chapter to reimburse the board for all or part of the costs of administrative actions resulting in disciplinary action, which are not reversed on appeal, including the amount paid by the board for services from the office of administrative hearings, attorney's fees, court costs, witness fees, staff time, and other expenses.
7. Licenses issued under this chapter expire annually, but may be renewed upon application to the board and payment of the annual renewal fee established by the board. Licenses which have expired, been suspended, or been revoked may be renewed or reissued upon satisfaction of any conditions that may be established by the board, and after payment of a fee established by the board. Temporary licenses may not be renewed.
8. The board shall require as a condition of renewal and relicensure that the applicant demonstrate satisfactory completion of continuing courses of study in respiratory care.

43-42-04. Respiratory care practice. The practice of respiratory care may be performed in hospitals, as ambulatory or in-home care, and in other settings where respiratory care is provided in accordance with a prescription of a licensed physician. In addition, respiratory care may be provided during the transportation of a patient, and under any circumstances where an epidemic or public disaster necessitates respiratory care. A person may not practice, nor represent that the person is able to practice, as a registered respiratory therapist without being licensed as a registered respiratory therapist, or as a certified respiratory therapist without being licensed as a certified respiratory therapist, in accordance with this chapter.

43-42-05. Application of chapter.

1. This chapter does not prohibit a person enrolled in a bona fide respiratory care training program from performing those duties essential for completion of a student's clinical service; provided, that the duties are performed under the supervision or direction of a physician or registered respiratory therapist and the person is identified as a "student respiratory therapist".
2. A graduate of a bona fide respiratory care training program, who has applied for licensure under this chapter may practice respiratory care under the supervision or direction of a physician or a registered or certified respiratory therapist; provided, that the graduate holds a temporary respiratory therapist's license and is identified as a "graduate respiratory therapist". An applicant shall take the entry level certification examination within six months following eligibility. Failure to pass any examination that is taken results in termination of the privileges provided under this subsection.
3. If examinations prepared by the national board for respiratory care are no longer available or become unacceptable to the board, the board may develop, approve, and use examinations for the licensure of registered respiratory therapists and certified respiratory therapists.
4. This chapter does not prevent a licensed and qualified member of another health care profession from performing any of the duties of a registered respiratory therapist or a certified respiratory therapist that are consistent with the accepted standards of that person's profession, provided the person is not represented as a registered respiratory therapist or certified respiratory therapist.
5. This chapter does not prohibit self-care by a patient or the gratuitous care by a friend or member of the family who does not represent or hold out to be a registered or certified respiratory therapist.
6. This chapter does not prohibit a respiratory therapist from performing advances in the art or techniques of respiratory care learned through formal or specialized training.

43-42-06. **Reciprocity.** An applicant for licensure under this chapter may be granted a license upon satisfactory proof to the board that the applicant is licensed to practice respiratory care under the laws of another state which impose substantially the same requirements as this chapter, and upon payment of the annual license fee.

43-42-07. **Penalty.** Any person who violates this chapter or any rules adopted under this chapter is guilty of an infraction.

ARTICLE 105-01

GENERAL ADMINISTRATION

CHAPTER 105-01-01
ORGANIZATION OF THE BOARD

105-01-01-01. Organization of the board of respiratory care.

1. **History and function.** The 1985 legislative assembly passed legislation to license respiratory care practitioners, codified as North Dakota Century Code chapter 43-42. That chapter requires the governor to appoint a respiratory care examining board. It is the responsibility of that board to license respiratory care practitioners within the state of North Dakota.
2. **Board membership.** The board consists of seven members appointed by the governor. Two members are registered respiratory care practitioners, two members are certified respiratory care practitioners, one member is a physician, and two members are representatives of the general public. Each board member serves a term of three years. No member may serve more than two successive terms on the board.
3. **Officers.** The board elects a chairperson and officers annually.
4. **Inquiries.** Inquiries regarding board activities may be addressed to:

North Dakota State Board of Respiratory Care
P.O. Box 2223
Bismarck, North Dakota 58502-2223
or
North Dakota State Board of Respiratory Care
c/o Division of Legal Services
North Dakota State Department of Health
P.O. Box 5520
1200 Missouri Avenue
Bismarck, North Dakota 58502-5520

History: Effective September 1, 1996.
General Authority: NDCC 28-32-02.1
Law Implemented: NDCC 43-42-02

ARTICLE 105-02

RESPIRATORY CARE PRACTITIONER LICENSURE

CHAPTER 105-02-01
INITIAL LICENSURE AND RENEWALS

105-02-01-01. Initial licensure application. An application for a license to practice respiratory care must be made to the state respiratory care examining board on forms approved by the board. The application must contain such information as the board may reasonably require.

1. Each application for a license must be accompanied by:
   a. The prescribed fee.
   b. An official transcript, certificate, or diploma verifying completion of an academic program in respiratory care recognized by the commission on allied health, education, and accreditation or its successor.
   c. A photocopy of original national board of respiratory care registry or certification certificate.
2. All applications must be signed by the applicant and notarized.
3. Any new applicant who has not worked as a registered respiratory therapist or certified respiratory therapy technician for three years will require entry level recredentialing.
4. The board may request such additional information or clarification of information provided in the application as it deems necessary.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

105-02-01-02. Licensure renewal. Licenses are renewable annually.

1. Applications for renewal of license will be mailed by the board on or before December first to all licenseholders. Fees are payable to the board on or before December thirty-first of the year preceding the renewal year.
2. An application for renewal of license must be signed by the applicant and notarized.
3. License fees are considered delinquent and a late charge is assessed if the renewal application is not postmarked on or before December thirty-first of the year preceding the renewal year.
4. A license is considered as a renewal if renewal is sought within three years from the date of the last issuance. After three years any application is considered a new application.
5. Renewal of license must be mailed by January twenty-fourth of the renewal year if the renewal request is complete and postmarked on or before December thirty-first.
6. All late renewal applications will be audited and proof of continuing education units is required.

History: Effective September 1, 1996.
General Authority: NDCC 43-43-03
Law Implemented: NDCC 43-43-03

105-02-01-03. Fees. The board has adopted the following fee payment schedule:

1. Initial license fee and license fee for renewal are:
   Registered respiratory care practitioner - $50.00
   Certified respiratory care practitioner - $35.00
   Temporary respiratory care practitioner - $35.00
2. Late fees in the amount of ten dollars must be charged for all applications received by the board which are postmarked after December thirty-first of the year prior to the year of renewal.
3. Respiratory care practitioners who initially become licensed after November first of the year are exempt from licensure renewal for a period of one year. There is no proration of fees.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

105-02-01-04. Continuing education. To renew a license, a person must present proof of having attended or acquired at least ten clock hours of continuing education approved by the board. If any licensee allows the licensee's license to lapse for a period of more than one year, the licensee must be required to submit proof of attendance or acquisition of at least ten clock hours of continuing education for each year that the license has lapsed up to a period of three years.

Continuing education for licensure renewal must be completed in the calendar year prior to the year for which licensure is sought. Under extraordinary circumstances, the board may consider a request for continuing education hours accrued in the same calendar year.

Continuing education courses must relate to or increase the professional competence of the attendee. This determination will be made by the board through approval of requested courses. The board has the authority to accept programs sponsored by a local, state, regional, national, international, scientific, or professional organization appropriate to provide continuing education (i.e., AARC, NDSRC, AMA, ALA, AHA, etc.).

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
History: NDCC 43-42-03

105-02-01-05. Passing score. The successful passing of a national examination means obtaining a score equal to or greater than the passing score established by the national board for respiratory care or its successor which is in effect at the time of the administration of the test.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

105-02-01-06. Qualified applicant.

1. In licensing a registered respiratory care practitioner or a certified respiratory care practitioner, "qualified" means trained and possessing the credential issued by the recognized testing or certification body of the profession.
2. In licensing a temporary respiratory care practitioner, the applicant will be deemed qualified upon meeting the eligibility requirements of the CRTT entry level exam as required and administered by the national board for respiratory care or its successor organization.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

ARTICLE 105-03

PRACTICE OF RESPIRATORY CARE

CHAPTER 105-03-01
RESPIRATORY CARE PRACTICE

105-03-01-01. Display of license. Every person licensed under North Dakota Century Code chapter 43-42 to practice as a registered respiratory care practitioner or certified respiratory care practitioner shall maintain such license or certificate in the office, department, business, or place in which the person practices, where, upon request, it is available to the public.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

105-03-01-02. Home medical equipment and delivery. North Dakota Century Code chapter 43-42 prohibits the setup and instruction of medical devices related to the practice of respiratory care, gases, and equipment by a nonlicensed health care professional. The delivery and maintenance of medical devices related to the practice of respiratory care, gases, and equipment by a nonlicensed health care professional for the expressed purpose of self-care by a patient or gratuitous care by a friend or family member in the home or extended care facility is permitted.

This maintenance or delivery by the nonlicensed person does not include performing patient assessment, having direct patient contact or patient care relating to home respiratory care, or representing oneself as a certified or registered respiratory care practitioner.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

CHAPTER 105-03-02
CODE OF ETHICS

Section
105-03-02-01 Code of Ethics
105-03-02-02 Grievance Procedure
105-03-02-03 Reporting Disciplinary Action

105-03-02-01. Code of ethics. The board has adopted and incorporated into these rules by reference the American association for respiratory care's statement of ethics and professional conduct as amended in 1994.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

105-03-02-02. Grievance procedure. Grievances must be processed in accordance with the provisions of North Dakota Century Code chapter 28-32.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

105-03-02-03. Reporting disciplinary action. The board shall report all disciplinary action taken by it to the national board for respiratory care.

History: Effective September 1, 1996.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

APPENDIX A
CODE OF ETHICS

Statement of Ethics and Professional Conduct

In the conduct of their professional activities the Respiratory Care Practitioner shall be bound by the following ethical and professional principles. Respiratory Care Practitioners shall:

Demonstrate behavior that reflects integrity, supports objectivity, and fosters trust in the profession and its professionals.

Actively maintain and continually improve their professional competence, and represent it accurately.

Perform only those procedures or functions in which they are individually competent and which are within the scope of accepted and responsible practice.

Respect and protect the legal and personal rights of patients they treat, including the right to informed consent and refusal of treatment.

Divulge no confidential information regarding any patient or family unless disclosure is required for responsible performance of duty or required by law.

Provide care without discrimination on any basis, with respect for the rights and dignity of all individuals.

Promote disease prevention and wellness.

Refuse to participate in illegal or unethical acts, and refuse to conceal illegal, unethical, or incompetent acts of others.

Follow sound scientific procedures and ethical principles in research.

Comply with state or federal laws which govern and relate to their practice.

Avoid any form of conduct that creates a conflict of interest, and follow the principles of ethical business behavior.

Promote the positive evolution of the profession, and health care in general, through improvement of the access, efficacy, and cost of patient care.

Refrain from indiscriminate and unnecessary use of resources, both economic and natural, in their practice.

APPENDIX B

NORTH DAKOTA CENTURY CODE
12.1-01-04
CRIMINAL CODE: GENERAL DEFINITIONS

12.1-01-04. (Effective through January 1, 2004) General definitions. As used in this title, unless a different meaning plainly is required:

1. "Act" or "action" means a bodily movement, whether voluntary or involuntary.
2. "Acted", "acts", and "actions" include, where relevant, "omitted to act" and "omissions to act".
3. "Actor" includes, where relevant, a person guilty of an omission.
4. "Bodily injury" means any impairment of physical condition, including physical pain.
5. "Court" means any of the following courts: the supreme court, the temporary court of appeals, a district court, and where relevant, a municipal court.
6. "Dangerous weapon" means, but is not limited to, any switchblade or gravity knife, machete, scimitar, stiletto, sword, or dagger; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or spear; any weapon which will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO_2 gun; and any projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance.
7. "Destructive device" means any explosive, incendiary or poison gas bomb, grenade, mine, rocket, missile, or similar device.
8. "Explosive" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses (other than electric circuit breakers), detonators and other detonating agents, smokeless powders, and any chemical compounds, mechanical mixture, or other ingredients in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, or material, or any part thereof may cause an explosion.
9. Repealed by S.L. 1975, ch. 116, § 33.
10. "Firearm" means any weapon which will expel, or is readily capable of expelling, a projectile by the action of an explosive and includes any such weapon, loaded or unloaded, commonly referred to as a pistol, revolver, rifle, gun, machine gun, shotgun, bazooka, or cannon.
11. "Force" means physical action.
12. "Government" means:
    a. The government of this state or any political subdivision of this state;
    b. Any agency, subdivision, or department of the foregoing, including the executive, legislative, and judicial branches;
    c. Any corporation or other entity established by law to carry on any governmental function; and
    d. Any commission, corporation, or agency established by statute, compact, or contract between or among governments for the execution of intergovernmental programs.
13. "Governmental function" includes any activity which one or more public servants are legally authorized to undertake on behalf of government.
14. "Harm" means loss, disadvantage, or injury to the person affected, and includes loss, disadvantage, or injury to any other person in whose welfare he is interested.
15. "Included offense" means an offense:
    a. Which is established by proof of the same or less than all the facts required to establish commission of the offense charged;

    b. Which consists of criminal facilitation of or an attempt or solicitation to commit the offense charged; or
    c. Which differed from the offense charged only in that it constitutes a less serious harm or risk of harm to the same person, property, or public interest, or because a lesser degree of culpability suffices to establish its commission.
16. "Includes" should be read as if the phrase "but is not limited to" were also set forth.
17. "Law enforcement officer" or "peace officer" means a public servant authorized by law or by a government agency or branch to enforce the law and to conduct or engage in investigations or prosecutions for violations of law.
18. "Local" means of or pertaining to any political subdivision of the state.
19. Repealed by S.L. 1975, ch. 116, § 33.
20. "Offense" means conduct for which a term of imprisonment or a fine is authorized by statute after conviction.
21. "Official action" includes a decision, opinion, recommendation, vote, or other exercise of discretion by any governmental agency.
22. "Official proceeding" means a proceeding heard or which may be heard before any government agency or branch or public servant authorized to take evidence under oath, including any referee, hearing examiner, commissioner, notary, or other person taking testimony or a deposition in connection with any such proceeding.
23. "Omission" means a failure to act.
24. As used in this title and in sections outside this title which define offenses, "person" includes, where relevant, a corporation, limited liability company, partnership, unincorporated association, or other legal entity. When used to designate a party whose property may be the subject of action constituting an offense, the word "person" includes a government which may lawfully own property in this state.
25. "Political subdivision" as used in this title and in any statute outside this title which defines an offense means a county, city, school district, town ship, and any other local governmental entity created by law.
26. "Property" includes both real and personal property.
27. "Public servant" as used in this title and in any statute outside this title which defines an offense means any officer or employee of government, including law enforcement officers, whether elected or appointed, and any person participating in the performance of a governmental function, but the term does not include witnesses.
28. "Risk assessment" means an initial phase with a secondary process approved by the department of human services for the evaluation of the likelihood that a person who committed an offense will commit another similar offense. The initial phase is an assessment tool that is administered by a trained probation and parole officer. A predetermined score on the initial phase initiates the secondary process that includes a clinical interview, psychological testing, and verification through collateral information or psychophysiological testing, or both. The department of human services shall perform the secondary process of the risk assessment.
29. "Serious bodily injury" means bodily injury that creates a substantial risk of death or which causes serious permanent disfigurement, unconsciousness, extreme pain, permanent loss or impairment of the function of any bodily member or organ, or a bone fracture.
30. "Signature" includes any name, mark, or sign written or affixed with intent to authenticate any instrument or writing.
31. "Substantial bodily injury" means a substantial temporary disfigurement, loss, or impairment of the function of any bodily member or organ.

32. "Thing of value" or "thing of pecuniary value" means a thing of value in the form of money, tangible or intangible property, commercial interests, or anything else the primary significance of which is economic gain to the recipient.
33. "Writing" includes printing, typewriting, and copying.

Words used in the singular include the plural, and the plural the singular. Words in the masculine gender include the feminine and neuter genders. Words used in the present tense include the future tense, but exclude the past tense.

APPENDIX C

NORTH DAKOTA CENTURY CODE
12.1-33-02
PENALTIES AND SENTENCING

12.1-33-02.1. Prior conviction of a crime not bar to state licensures - Exceptions.

1. A person may not be disqualified to practice, pursue, or engage in any occupation, trade, or profession for which a license, permit, certificate, or registration is required from any state agency, board, commission, or department solely because of prior conviction of an offense. However, a person may be denied a license, permit, certificate, or registration because of prior conviction of an offense if it is determined that such person has not been sufficiently rehabilitated, or that the offense has a direct bearing upon a person's ability to serve the public in the specific occupation, trade, or profession.
2. A state agency, board, commission, or department shall consider the following in determining sufficient rehabilitation:
   a. The nature of the offense and whether it has a direct bearing upon the qualifications, functions, or duties of the specific occupation, trade, or profession.
   b. Information pertaining to the degree of rehabilitation of the convicted person.
   c. The time elapsed since the conviction or release. Completion of a period of five years after final discharge or release from any term of probation, parole or other form of community corrections, or imprisonment, without subsequent conviction shall be deemed prima facie evidence of sufficient rehabilitation.
3. If conviction of an offense is used in whole or in part as a basis for disqualification of a person, such disqualification shall be in writing and shall specifically state the evidence presented and the reasons for disqualification. A copy of such disqualification shall be sent to the applicant by certified mail.
4. A person desiring to appeal from a final decision by any state agency, board, commission, or department shall follow the procedure provided by the chapter of this code regulating the specific occupation, trade, or profession. If no appeal or review procedure is provided by such chapter, an appeal may be taken in accordance with chapter 28-32, except for attorneys disbarred or suspended under chapter 27-14.

NDSRC
Communicator
Spring Edition 2001

Table of Contents

President's Letter

by Glenn Thom

While this issue of the Communicator is being finalized, Senate Bill 2162 , the Respiratory Care Practice Act, has been unanimously approved by the full Senate and is awaiting cross-over time to move through the House. Check out a review of the amendment provisions elsewhere in this issue.

Other legislative highlights include a variety of topics with relevance to the practice of respiratory care in this state. Two members of the NDSRC Board of Directors have been following and testifying, where needed, in concert with our paid lobbyist, Jack McDonald of Wheeler Wolff Attorney.

In addition to the RT bill, Beth Hughes and I have been watching:

- SB 2303-a universal reciprocity bill that would affect all licensing boards.
- HB 1202-changes in emergency medical services statute.
- HB 1256-restrictions on environmental tobacco smoke in non-public areas.
- SB 2024-regarding interest earned on tobacco settlement payments to ND.
- SB 2029-regarding interest earned on tobacco settlement and water development.
- SB 2028-interest on tobacco settlement and community health trust fund.
- SB 2114-nursing practice act changes (UAPs, exemptions, discipline).
- HB 1155-massage therapist licensure.
- SB 2258-limitations on fees increases by any licensure board.
- SB 2303-mandatory reciprocity (Sen. Andrist version).
- SB 2115-guidelines for reciprocity (Heidi Heitkamp version).

It is amazing how well-thought-out and, at the same, how poorly constructed some legislation is.

Looking forward, Spring Convention 2001 is coming up in Fargo, with very high quality speakers planned. You should have already received a separate mailing on the details. It looks like a good 'un!

You should have also received by now, your ballots to vote for openings on the NDSRC Board of Directors. Cast your vote! It is an important commitment to serve on this Board and equally important that everyone is represented across the state.

Thanks for being out there, practicing the art and profession of respiratory care. In your locale, you provide ALL of the definition to the term, "respiratory therapist". Thank you for your continued effort in giving that name the best meaning possible. You ARE respiratory care and we are glad you are part of the NDSRC.

December 1-4, 2001
San Antonio, Texas USA

For 46 years the AARC's International Respiratory Congress has been the gold standard of respiratory care education and trade. For 46 years the AARC's International Respiratory Congress has delivered the highest quality programs with information that really matters. For 46 years the AARC has plowed its resources back into the profession, expanding the practice and influence of respiratory therapy in the health care system Don't miss out on the largest and most comprehensive respiratory care meeting in the world, coming in 2001 to one of the most exciting cities in the US, San Antonio. For additional information, please call (972) 243-2272, or email clay@aarc.org.

Back to the Table of Contents

Respiratory Therapist Practice Act

The NDSBRC (licensure board) and the NDSRC (Society Board) have been working feverishly on needed amendments to the practice act. These amendments do two things:

1. Credential changes from RRCP to RRT and CRCP to CRT to reflect current standards.
2. Fees have been removed from the practice act in an effort to make changes if needed at some point less cumbersome. The fees have not changed since 1985 and the board has no immediate plans to change them.

The Amended practice act has moved through the Senate floor Business and Industry without much problem. We anticipate administrative rules hearings to begin later this year with new practice act booklets being sent to all North Dakota licensed therapists early next year.

Back to the Table of Contents

2001 NDSRC Spring Convention
"2001: THE MILLENIUM AND BEYOND"

Ramada Plaza Suites & Convention Center
Fargo, ND

Tentative Convention Schedule

Monday, April 9, 2001

7:30-11:30 a.m.	**Respironics "Vision" Non-Invasive Ventilation Workshop** (limited to 20 participants; watch for a separate mailing to follow)
8:30-11:30 a.m.	NDSRC Pre-Board Meeting
10:00 a.m.-12:00 p.m.	Registration
12:00 p.m.	**Welcome** Glenn Thom, BS, RRT, NDSRC President, Bismarck, North Dakota
12:05-12:55 p.m.	**Keynote Address: Who Are We, Where Are We, and What The Heck Are We Doing?** Kerry George, BS, RRT, Des Moines, Iowa
1:00-1:55 p.m.	**Protocols and Professionalism** Ruth Krueger, RRT, Sioux Falls, South Dakota
2:00-2:30 p.m.	Break
2:30-3:25 p.m.	**Effective Tobacco Cessation Programs** Barb Anton, BS, RRT, Fargo, North Dakota
	Breakout Sessions

From : "Cherri Larson" <cslsue@iwon.com>
Reply-To : cslsue@iwon.com
To : g_langan@hotmail.com
Subject : Re: Resp. Care Handbook/ND Century Code
Date : Thu, 17 Apr 2003 10:03:08 -0400 (EDT)

I spoke with Duane yesterday, he will be asking Chris to return his license, and refunding his $35.00. This was issued in error, the only temp licenses that are to be issued are to those who have graduated from school. Once he completes his program he can then apply for a temporary license, after which he has 6 months to pass the CRT test.
The important thing with students is that they are not left alone in the the hospital or in charge of patients without supervision.

--- On Wed 04/16, Gary Lang an g_langan@hotmail.com wrote:
From: Gary Lang an [mailto: g_langan@hotmail.com]
To: cslsue@iwon.com
Date: Wed, 16 Apr 2003 21:29:48 +0000
Subject: Re: Resp. Care Handbook/ND Century Code

When we were contiplating doing the California College program with Chris in the summer of 2001, I called and spoke with Duane Flick about the Temporary License to see if it was the same as when I went to school through California College. If you could work and go to school and he said it was. In December 2002, Chris passed all his pre-requisite courses and enrolled in College and that is when he received his Temporary License. He had been observing Respiratory Care for over a year. His position is very modified - he basically does MN tx's and oximeters and oxygen setups - which he is very well trained into and there is always someone with him or a few minutes from him. So at this point- when will this license be void or will it be when it expires?

I appreciate your help in this matter.

Kathleen

From: "Cherri Larson"
Reply-To: cslsue@iwon.com
To: g_langan@hotmail.com
Subject: Re: Resp. Care Handbook/ND Century Code
Date: Wed, 16 Apr 2003 13:21:06 -0400 (EDT)
Chris does not a license as long as he is enrolled in a "bona fide respiratory care training program" Once he graduates he can then get a temp license. This was changed because if a person is a student he does not need a license because they as students, cannot practice Resp. Care unless they are under the direct supervision of a CRT, RRT, or physician. There had been a problem with students working as paid staff members (i.e. not having someone with them while doing Resp. Care procedures).
--- On Wed 04/16, Gary Langan g_langan@hotmail.com wrote:
From: Gary Langan [mailto: g_langan@hotmail.com]
To: cslsue@iwon.com
Date: Wed, 16 Apr 2003 16:35:05 +0000
Subject: Re: Resp. Care Handbook/ND Century Code

The Fee is not my concern at all! As I stated in the next paragraph to my last reply, I am concerned about the changes to the Temporary License. It states that the lisense is non-renewable and the verbage went from deleting the verbage on enrolled in a school to a graduate of a school. As I stated he is just a lIttle under half done. This will effect us tremendously. It is not easy to find help in Rolla which is the reason we went this route in the first place. At the end of his this year will he not be able to obtain another temporary license?

Kathleen

From: "Cherri Larson"
Reply-To: cslsue@iwon.com
To: g_langan@hotmail.com
Subject: Re: Resp. Care Handbook/ND Century Code
Date: Wed, 16 Apr 2003 10:09:52 -0400 (EDT)
If you read section 3, 43-42-03, nuber 2 is says "The board shall establish fees not to excess $70" It does not state the current fee is $70. This gives the board the option to raise fees with out opening the act for fee changes.
Under 105-02-01-03 the fees remain the same ($35).
Is your concern the cost of the license?
Cherri
--- On Wed 04/16, Gary Langan g_langan@hotmail.com wrote:
From: Gary Langan [mailto: g_langan@hotmail.com]
To: larfarm@ndak.net
Date: Wed, 16 Apr 2003 05:41:58 +0000
Subject: Re: Resp. Care Handbook/ND Century Code

Cheri:

After much searching, I found a bill for an act to amend and reenact the respiratory practice act from the 57th Legislative Assembly. This amendment states the changes that were my original concerns made to the Respiratory Care Practice Act 43-42 which I found a link to on the Society's web page @ www.ndsu.nodak.edu/ndsrc, under realated links, then licensure. Are these changes in effect? On the bill to amend the practice act (first engrossment) it states that the licensure fee for a cert. is $70 - but I only paid $35.00.

The reason I am so concerned is Christopher Albertson received a Temporary License in December 2002. He is enrolled in California College and is a little under half done. I had spoken with Duane Flick in the summer/fall of 2001 to inquire about a temporary license for Chris- he didn't mention a thing about these changes. I received an application along with a handbook for Chris at that time.

I read all the communication that I receive from the Society, etc.. but did not realize these changes were in the works. The only information that I can find relating to information released is from the Spring 2001 RC Communicator- which is as follows:

Respiratory Therapist Practice Act

The NDSBRC (licensure board) and the NDSRC (Society Board) have been working feverishly on needed amendments to the practice act. These amendments do two things:

1. Credential changes from RRCP to RRT and CRCP to CRT to reflect current standards.
2. Fees have been removed from the practice act in an effort to make changes if needed at some point less cumbersome. The fees have not changed since 1985 and the board has no immediate plans to change them.

The Amended practice act has moved through the Senate floor Business and Industry without much problem. We anticipate administrative rules hearings to begin later this year with new practice act booklets being sent to all North Dakota licensed therapists early next year.

Thank you for your help-

Kathleen

From: "Larson's"
To: "Respiratory Care"

Subject: Re: Resp. Care Handbook/ND Century Code
Date: Tue, 15 Apr 2003 18:00:18 -0500
Kathleen
Sorry I did not recieve your last e-mail.
What specific things are you wondering about?
I can not seem to find the practice act you are referring to at the ndsu link.
If look up Senate Bill 2162 it will give you changes to the hand book.
Call me if I can help you with something.
Cherri
----- Original Message -----
From: Respiratory Care
To: larfarm@ndak.net
Sent: Tuesday, April 15, 2003 3:07 PM
Subject: Resp. Care Handbook/ND Century Code
Hi Cherri!
I am writing wondering if you received my last email, asking for imformation on the differences on the verbage in the RC Handbook and the link to the ND century code which contains the RT practice act.
I left several messages for Duane Flick and called again today and he answered, but was unable to answer my question regarding these discprepicies.
The verbage especially for the Training Respiratory Care Liscense is different on the web page than what is the hand book. Duane did state that there is an updated handbook waiting to go to press, but didn't think there was any real big changes in the practice act.
There are big differences in the handbook and the practice act taken from the www.ndsu.nodak.edu website link.
Can you please let me know ASAP- which one is correct? If I do not hear back from you by the end of the week, I will try calling if I do not get an email back.
My thanks,
Kathleen Langan
Director Respiratory Care
Presentation Medical Center
Rolla, ND 58367-0759
701-477-3162 ext. 280
g_langan@hotmail.com

<p>

Can a Web portal forever change your life?
Win up to $25 Million on iWon - http://www.iwon.com

North Dakota State Board of Respiratory Care

Box 2223 • Bismarck, North Dakota 58502 • Telephone 701-222-1564 • Fax 701-255-9149

April 17,2003

Christopher R. Albertson
P.O. Box 278
Saint John, ND 58369

Dear Christopher:

It has been brought to my attention that, because of some legislative changes made during the 2001 session, students enrolled in a bonified school of respiratory care training need not be licensed in North Dakota.

Once the student has completed his course of study and has received his diploma, he can then apply for a temporary license to work in North Dakota. The graduate must than take his certification exam as soon as possible.

Please return your license card to me in the inclosed envelope and when I receive it I will send you a check in the amount of $35.00 which is what you sent to us with your application. You can than make application for a license as a "Certified" Respiratory Care Practitioner when you pass your exam. I will then issue a new license. The fee will still be S$35.00.

If you have any questions, please call me at 701-222-1564.

Thank you.

Duane K. Flick
Administrative Assistant

Enc: 1

Kimber Wraalstad

From: "Kimber Wraalstad" <kimberw@utma.com>
To: <cslsue@iwon.com>
Sent: Thursday, April 17, 2003 10:13 AM
Subject: Respiratory Therapy

Cherri:

Kathleen Langan has discussed with me the situation concerning Chris Albertson and the temporary license. At this point, I am recommending to Chris that he NOT return the license. This is a significant issue to the Respiratory Therapy Department at Presentation Medical Center. Actions have been taken by both Chris and Presentation Medical Center based upon discussions with representatives from the ND Board of Respiratory Care.

I am requesting a meeting with you, Duane Flick, Kathleen Langan and I, as soon as possible. Please contact Kathleen to arrange the meeting at your convenience.

Sincerely,

Kimber Wraalstad
President/CEO
Presentation Medical Center

OFFICE OF ATTORNEY GENERAL
STATE OF NORTH DAKOTA

Wayne Stenehjem
ATTORNEY GENERAL

CAPITOL TOWER
State Capitol
600 E. Boulevard Ave.
Dept. 125
Bismarck, ND 58505-0040
701-328-2210
800-366-6888 (TTY)
FAX 701-328-2226

Consumer Protection and Antitrust Division
701-328-3404
Toll Free in North Dakota
800-472-2600
FAX 701-328-3535

Gaming Division
701-328-4848
FAX 701-328-3535

Licensing Section
701-328-2329
FAX 701-328-3535

SOUTH OFFICE BUILDING
500 N. 9th St.
Bismarck, ND 58501-4509
FAX 701-328-4300

Civil Litigation
701-328-3640

Natural Resources
701-328-3640

Racing Commission
701-328-4290

Bureau of Criminal Investigation
P.O. Box 1054
Bismarck, ND 58502-1054
701-328-5500
Toll Free in North Dakota
800-472-2185
FAX 701-328-5510

Fire Marshal
P.O. Box 1054
Bismarck, ND 58502-1054
701-328-5555
FAX 701-328-5510

Information Technology
P.O. Box 1054
Bismarck, ND 58502-1054
701-328-5500
FAX 701-328-5510

www.ag.state.nd.us

June 13, 2003

Ms. Kimber Wraalstad
Administrator
Presentation Medical Center
213 2nd Ave NE
Rolla, ND 58367-7153

Dear Wraalstad:

I represent the North Dakota State Board of Respiratory Care and I am writing on the Board's behalf concerning Presentation Medical Center's employment of an unlicensed student to perform respiratory care.

The State Legislature amended the law regarding temporary licenses for respiratory therapists by removing the Board's authority to provide a temporary license for students enrolled in respiratory care training programs. The Board erred in applying the old law when providing a temporary license to a respiratory care student in your employ, Christopher L. Albertson. The Board has notified Mr. Albertson of this error and has requested he return his license card and receive a refund of his application fee.

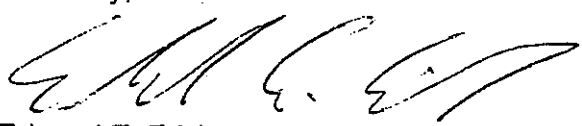
Mr. Albertson may continue to work for you in the capacity of a student, but may not practice respiratory care unless directly supervised by a certified or registered respiratory therapist. In this way, Mr. Albertson may continue his education, which we understand will be completed by May 2004. As a student, however, Mr. Albertson would not be deemed to be practicing respiratory care on patients. The individual practicing respiratory care on your patients would be the supervising respiratory therapist. Therefore, a supervising respiratory therapist must be present whenever Mr. Albertson is conducting any respiratory care practice involving a patient.

The Board is aware that Presentation Medical Center participated in the education of a respiratory therapy student who was allowed to practice on patients without having a registered or certified respiratory therapist present. However, at the time that this was occurring, the Board was not aware of the lack of direct supervision. Neither present law nor the law that was repealed allowed a student of respiratory therapy to practice outside of the presence

of a certified or registered respiratory therapist. The Board has no reason to believe that the actions undertaken at Presentation Medical Center constituted a knowing attempt to violate the law, but instead the Board at the present time believes your actions to have been entirely in good faith. Accordingly, the Board would prefer to take a conciliatory approach to these instances and simply request that Presentation Medical Center amend its practices to comply with the law.

We trust that Presentation Medical Center would not wish to jeopardize its patient care by having respiratory therapy performed by an untrained individual, we also trust that Presentation Medical Center would not want to jeopardize its license with the State Department of Health or any certification it may have with the federal Medicare or Medicaid programs by having an unlicensed person provide direct patient care. The Board would be willing to meet with you, Mr. Albertson, and other staff if you have further questions or concerns about these matters. If you have any questions, or would like to arrange a meeting, please feel free to write to me at the Capitol tower address.

Sincerely,



Edward E. Erickson
Assistant Attorney General

vkk
cc: Duane K. Flick, North Dakota State Board of Respiratory Care
Christopher R. Albertson

OFFICE OF ATTORNEY GENERAL
STATE OF NORTH DAKOTA

Wayne Stenehjem
ATTORNEY GENERAL

June 13, 2003

CAPITOL TOWER
State Capitol
600 E. Boulevard Ave.
Dept. 125
Bismarck, ND 58505-0040
701-328-2210
800-366-6888 (TTY)
FAX 701-328-2226

Consumer Protection and Antitrust Division
701-328-3404
Toll Free in North Dakota
800-472-2600
FAX 701-328-3535

Gaming Division
701-328-4848
FAX 701-328-3535

Licensing Section
701-328-2329
FAX 701-328-3535

SOUTH OFFICE BUILDING
500 N. 9th St.
Bismarck, ND 58501-4509
FAX 701-328-4300

Civil Litigation
701-328-3640

Natural Resources
701-328-3640

Racing Commission
701-328-4290

Bureau of Criminal Investigation
P.O. Box 1054
Bismarck, ND 58502-1054
701-328-5500
Toll Free in North Dakota
800-472-2185
FAX 701-328-5510

Fire Marshal
P.O. Box 1054
Bismarck, ND 58502-1054
701-328-5555
FAX 701-328-5510

Information Technology
P.O. Box 1054
Bismarck, ND 58502-1054
701-328-5500
FAX 701-328-5510

www.ag.state.nd.us

Mr. Christopher R. Albertson
PO Box 278
St. John, ND 58369-0278

Dear Mr. Albertson:

I represent the State Board of Respiratory Care and I am writing on the Board's behalf concerning a temporary license which was erroneously issued to you in violation of the law.

Prior to August 2001, the law allowed a temporary license to be issued by the Board to students enrolled in a respiratory care training program. That law was changed, and the Board may no longer issue such a temporary licensed. However, by error, the Board issued you such a temporary license without legal authority. In a letter to you dated April 17, 2003, the Board's administrative assistant, Duane K. Flick, requested you to return the temporary license and you would be provided a full refund of your license fee. The Board has informed me that you have not yet done so. I request that you return the license to the Board immediately.

While your use of the license prior to receipt of Mr. Flick's letter would have been in honest reliance on the Board's error, any use by you of that license after that date may potentially subject you to charges including practicing respiratory care without a license under North Dakota Century Code § 43-42-07.

However, as a student enrolled in a bona fide respiratory care training program, you may continue your education under the direct supervision of a certified or registered respiratory therapist. The Board understands that past practices at Presentation Medical Center have not complied with this requirement. The Board would prefer to take a cooperative approach with Presentation in amending this practice so that you may complete your education while complying with the law. Therefore, on the Board's behalf, I have written to Administrator Kimber Wraalstad concerning this matter, copy enclosed. If it is necessary, we would like to have a meeting with you and the staff of Presentation Medical Center in order to correct these issues. I recommend that you be in close contact with Ms. Wraalstad. However, if

you have any questions or concerns, please write me at the Capitol tower address.

Sincerely,

Edward E. Erickson
Assistant Attorney General

vkk
Enclosure
cc: Duane K. Flick
Kimber Wraalstad

North Dakota State Board of Respiratory Care

Box 2223 • Bismarck, North Dakota 58502

12-08-03

Edward E. Erickson
State Capitol
600 E. Blvd. Ave., Dept. 125
Bismarck, ND 58505-0040

Dear Mr. Erickson,

Thank you for your response to the NDSBRC concerns.

I am the board chairman and would be the person assigned for the meetings to be arranged with Med Center One. You can contact me regarding a date for this at your convenience. I can be reached at 701-776-5261.

Regarding the situation in Rolla we would appreciate you issuing a ruling on this at your earliest convenience. You and Cherri Larson and Duane Flick met with the Rolla reps. on 7-22-03. It was decided to check into the use of a video cellular phone for this situation. At the Board Meeting in Belcourt on 11-09-03 the entire board voted to not allow this due to the chance of error/patient safety with a therapist watching over the phone and their response time to the facility. The North Dakota State Respiratory Care Handbook states on page 2 under 43-42-03 #3 "The board shall license as a temporary respiratory therapist any applicant whom the board determines to be qualified to perform duties as a temporary respiratory therapist. In making the determination, **the board shall require evidence that the applicant has successfully completed a bona fide respiratory care training program.** The board shall establish fees ..."

We would appreciate your timely response to these issues and also keeping us informed of all that transpires so that we can be assured that the public is not placed at risk in any situations.

Thanks for working with us on these issues. We will be having our next board meeting on 1-12-04 at the Radisson in Bismarck at 12:00pm. Would it be possible to have these issues resolved before then.

Sincerely,

Allan Meckle, RRT

Allan Meckle, RRT
NDSBRC Chairman

OFFICE OF ATTORNEY GENERAL
STATE OF NORTH DAKOTA

Wayne Stenehjem
ATTORNEY GENERAL

STATE CAPITOL
600 E. Boulevard Ave. Dept. 125
Bismarck, ND 58505-0040
701-328-2210
800-366-6888 (TTY)
Fax 701-328-2226

Consumer Protection and Antitrust Division
701-328-3404
Toll Free in North Dakota
800-472-2600
Fax 701-328-3535

Gaming Division
701-328-4848
Fax 701-328-3535

Licensing Section
701-328-2329
Fax 701-328-3535

Lottery Division
701-328-1574
Fax 701-328-3535

500 N. 9th St.
Bismarck, ND 58501-4509
Fax 701-328-4300

Civil Litigation
701-328-3640

Natural Resources
701-328-3640

Racing Commission
701-328-4290

P.O. Box 1054
Bismarck, ND 58502-1054
Fax 701-328-5510

Bureau of Criminal Investigation
701-328-5500
Toll Free in North Dakota
800-472-2185

Fire Marshal
701-328-5555

Information Technology
701-328-5500

P.O. Box 937
Bismarck, ND 58502-0937
Fax 701-328-6145

Crime Laboratory
701-328-6159
Toll Free in North Dakota
800-296-2054

December 16, 2003

Mr. Christopher R. Albertson
PO Box 278
St. John, ND 58369-0278

Ms. Kimber Wraalstad
Administrator
Presentation Medical Center
213 2nd Ave NE
Rolla, ND 58367-7153

Dear Mr. Albertson and Ms. Wraalstad:

I regret to inform you that the North Dakota State Board of Respiratory Care voted at its November 9, 2003, meeting to reject the proposal allowing Mr. Albertson to complete his student training by having his required supervision obtained through use of a video or photographic cellular phone. The Board noted that the requirements of a temporary respiratory therapist license include successful completion of a bona fide respiratory care training program. North Dakota Century Code (N.D.C.C.) § 43-42-03(3). Please see the enclosed copy of Board Chairman Allan Meckle's December 8, 2003, letter to me. Further, it is apparent in the Board's decision that it rejected the suggestion Ms. Wraalstad made that N.D.C.C. § 43-42-05(1), which requires that a student's practical training to be under the supervision or direction of a physician or registered respiratory therapist, permits the supervision or direction to be performed without the physician or registered respiratory therapist being present.

I would encourage the development of an alternative plan allowing Mr. Albertson to complete his training while being supervised or directed by a physician or registered respiratory therapist, as required by N.D.C.C. § 43-42-05(1). If there is anything further I can do to help facilitate communication with the State Board of Respiratory Care, please let me know.

Sincerely,

Edward E. Erickson
Assistant Attorney General

vkk
Enclosure
cc: Allan Meckle, RRT, NDSBRC (w/o enc)