

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Respiratory Care)

1 A BILL for an Act to amend and reenact subsection 10 of section 43-42-01 and sections  
2 43-42-03 and 43-42-05 of the North Dakota Century Code, relating to respiratory care and  
3 polysomnographic licensure.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 10 of section 43-42-01 of the North Dakota Century  
6 Code is amended and reenacted as follows:

7 10. "Respiratory care" means the health specialty involving the treatment, management,  
8 control, and care of patients with deficiencies and abnormalities of the  
9 cardiorespiratorycardiopulmonary systems. Respiratory care is implemented on an  
10 order from a licensed physician, certified nurse practitioner, or physician's assistant  
11 and includes the use of medical gases, air and oxygen administering apparatuses,  
12 environmental control systems, humidification and aerosols, drugs and medications,  
13 apparatuses for cardiorespiratory support and control, postural drainage, chest  
14 percussion and vibration and breathing exercises, pulmonary rehabilitation, assistance  
15 with cardiopulmonary resuscitation, maintenance of natural and artificial airways, and  
16 insertion of artificial airways. The term also includes testing techniques to assist in  
17 diagnosis, monitoring, treatment, and research, including the measurement of  
18 cardiorespiratory volumes, pressures and flows, and the drawing and analyzing of  
19 samples of arterial, capillary, and venous blood.

20 **SECTION 2. AMENDMENT.** Section 43-42-03 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **43-42-03. Respiratory therapist and polysomnographic technologist licensing - Fees.**

23 1. The board shall license as a registered respiratory therapist any applicant whom the  
24 board determines to be qualified to perform the duties of a registered respiratory

1 therapist. In making this determination, the board shall require evidence that the  
2 applicant has successfully completed a bona fide respiratory care training program  
3 and has passed the registry examination. The board shall establish fees not in excess  
4 of one hundred dollars for the issuance and renewal of a registered respiratory  
5 therapist license.

6 2. The board shall license as a certified respiratory therapist any applicant whom the  
7 board determines to be qualified to perform the duties of a certified respiratory  
8 therapist. In making this determination, the board shall require evidence that the  
9 applicant has successfully completed a bona fide respiratory care training program  
10 and has passed the certification examination. The board shall establish fees not in  
11 excess of ninety dollars for the issuance and renewal of a certified respiratory therapist  
12 license.

13 3. The board shall license as a registered polysomnographic technologist any applicant  
14 whom the board determines to be qualified to perform the duties of a registered  
15 polysomnographic technologist. In making this determination, the board shall require  
16 evidence that the applicant has complied with the rules adopted by the board under  
17 section 43-42-04.1. The board shall establish fees not in excess of ninety dollars for  
18 issuance and for renewal of a registered polysomnographic technologist license.

19 4. The board may assess a late fee not in excess of twenty-five dollars for all license  
20 renewal applications that are postmarked after December thirty-first of the year prior to  
21 the year of renewal.

22 5. The board shall refuse to license any applicant or, shall suspend or revoke any  
23 license, or may fine, require additional education or appropriate treatment for any  
24 licensee, after proper notice and a hearing, if the applicant or licensee:

25 a. Is not qualified or competent to perform the duties of a registered respiratory  
26 therapist, a certified respiratory therapist, or a registered polysomnographic  
27 technologist.

28 b. Has attempted to obtain or has obtained licensure under this chapter by fraud or  
29 material misrepresentation.

- 1 c. Has been found by the board to have been grossly negligent as a registered  
2 respiratory therapist, certified respiratory therapist, or registered  
3 polysomnographic technologist.
- 4 d. Has engaged in conduct as a registered respiratory therapist, certified respiratory  
5 therapist, or registered polysomnographic technologist which is unethical,  
6 unprofessional, or detrimental to the health of the public.
- 7 e. Has failed to demonstrate satisfactory completion of such continuing courses of  
8 study in respiratory care as the board may require.
- 9 f. Has been convicted or adjudged guilty of an offense, as defined by section  
10 12.1-01-04, determined by the board to have a direct bearing upon that  
11 individual's ability to practice respiratory care or polysomnography and is not  
12 sufficiently rehabilitated as determined by the board in accordance with section  
13 12.1-33-02.1.
- 14 g. Is habitually drunk or is addicted to the use of a controlled substance as defined  
15 in chapter 19-03.1.
- 16 h. Has been declared mentally incompetent by a court of competent jurisdiction,  
17 and who has not thereafter been lawfully declared competent.
- 18 6. The board may impose a fee on any person subject to regulation under this chapter to  
19 reimburse the board for all or part of the costs of administrative actions resulting in  
20 disciplinary action, which are not reversed on appeal, including the amount paid by the  
21 board for services from the office of administrative hearings, attorney's fees, court  
22 costs, witness fees, staff time, and other expenses.
- 23 7. Licenses issued under this chapter expire annually, but may be renewed upon  
24 application to the board and payment of the annual renewal fee established by the  
25 board. Licenses which have expired, been suspended, or been revoked may be  
26 renewed or reissued upon satisfaction of any conditions that may be established by  
27 the board, and after payment of a fee established by the board.
- 28 8. The board shall require as a condition of renewal and relicensure that the applicant  
29 demonstrate satisfactory completion of continuing courses of study in respiratory care.

30 **SECTION 3. AMENDMENT.** Section 43-42-05 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1       **43-42-05. Application of chapter.**

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

7       2. If examinations prepared by the national board for respiratory care are no longer  
8       available or become unacceptable to the board, the board may develop, approve, and  
9       use examinations for the licensure of registered respiratory therapists and certified  
10      respiratory therapists.

11     3. This chapter does not prevent a licensed and qualified member of another health care  
12      profession from performing any of the duties of a registered respiratory therapist or a  
13      certified respiratory therapist or a registered polysomnographic technologist that are  
14      consistent with the accepted standards of that person's profession, provided the  
15      person is not represented as a registered respiratory therapist or certified respiratory  
16      therapist or registered polysomnographic technologist.

17     4. This chapter does not prohibit self-care by a patient or the gratuitous care by a friend  
18      or member of the family who does not represent or hold out to be a registered or  
19      certified respiratory therapist.

20     5. This chapter does not prohibit a ~~respiratory therapist~~ licensee under this chapter from  
21      performing advances in the art or techniques of ~~respiratory care~~ the licensee's licensed  
22      profession learned through formal or specialized training.

23     6. This chapter does not prohibit an individual licensed or registered as a respiratory  
24      therapist in another state or country from providing respiratory care in an emergency in  
25      this state, providing respiratory care as a member of an organ harvesting team, or  
26      from providing respiratory care on board an ambulance as part of the ambulance  
27      treatment team.