

HOUSE BILL NO. 620

INTRODUCED BY SQUIRES, WEEDING

IN THE HOUSE

FEBRUARY 5, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON HUMAN SERVICES & AGING.

FEBRUARY 6, 1991                   FIRST READING.

FEBRUARY 21, 1991                  COMMITTEE RECOMMEND BILL  
DO PASS. REPORT ADOPTED.

FEBRUARY 22, 1991                  PRINTING REPORT.

                                      POSTED ON ALTERNATIVE CONSENT CALENDAR.

FEBRUARY 27, 1991                  THIRD READING, PASSED.  
AYES, 94; NOES, 6.

                                      TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 4, 1991                    INTRODUCED AND REFERRED TO COMMITTEE  
ON PUBLIC HEALTH, WELFARE, & SAFETY.

                                      FIRST READING.

MARCH 21, 1991                    COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

MARCH 22, 1991                    SECOND READING, CONCURRED IN.

MARCH 23, 1991                    THIRD READING, CONCURRED IN.  
AYES, 37; NOES, 10.

                                      RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 9, 1991                    RECEIVED FROM SENATE.

                                      SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 10, 1991                    THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *620*  
 2 INTRODUCED BY *Spencer C. Anderson*  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING THE PRACTICE  
 5 OF RESPIRATORY CARE; ESTABLISHING A QUASI-JUDICIAL BOARD OF  
 6 RESPIRATORY CARE PRACTITIONERS WITH RULEMAKING AUTHORITY;  
 7 REQUIRING LICENSURE OR A TEMPORARY PERMIT FOR RESPIRATORY  
 8 CARE PRACTITIONERS; REQUIRING FEES FOR A TEMPORARY PERMIT  
 9 AND A LICENSE; PROVIDING THAT THE FEES ARE DEPOSITED TO THE  
 10 SPECIAL REVENUE FUND FOR THE BOARD'S USE; PROVIDING  
 11 PENALTIES; REQUIRING PRACTITIONERS TO REPORT CERTAIN CONDUCT  
 12 AND PROVIDING IMMUNITY FOR REPORTING; AND PROVIDING  
 13 EFFECTIVE DATES."

14 STATEMENT OF INTENT

15 A statement of intent is required for this bill because  
 16 [section 5] grants rulemaking authority to the board of  
 17 respiratory care practitioners.

18 (1) In outlining the powers and responsibilities of the  
 19 board of respiratory care practitioners, it is the intent of  
 20 [section 5] that the board have authority to adopt rules to  
 21 implement and enforce [sections 1, 2, and 4 through 13] and  
 22 specific authority to adopt rules regarding:  
 23

24 (a) license and temporary permit applications and  
 25 procedures necessary to receive and process those

- 1 applications;
- 2 (b) examinations and criteria for grading examinations;
- 3 (c) disciplinary standards for licensees and temporary
- 4 permitholders, including definitions of conduct for which
- 5 discipline may be appropriate;
- 6 (d) continuing education requirements;
- 7 (e) investigations of complaints;
- 8 (f) setting and modifying appropriate fees;
- 9 (g) a process for renewal of licenses and temporary
- 10 permits, including procedures for late renewal;
- 11 (h) waiver of license requirements as provided in
- 12 [section 7(2)]; and
- 13 (i) reciprocity conditions applicable to licensure.
- 14 (2) It is the intent of the legislature that the
- 15 governor have the authority to implement staggered terms for
- 16 board members during the appointment process.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 NEW SECTION. **Section 1.** Findings -- purpose. The  
 19 legislature finds and declares that the practice of  
 20 respiratory care in the state affects the public health,  
 21 safety, and welfare. To protect the public from the  
 22 unqualified practice of respiratory care or unprofessional  
 23 conduct by qualified practitioners, respiratory care is  
 24 subject to regulation and control. The purpose of [sections  
 25

1 1, 2, and 4 through 13] is to regulate the practice of  
 2 respiratory care. The legislature recognizes that the  
 3 practice of respiratory care is a dynamic and changing art  
 4 and science that is continually evolving to include new  
 5 ideas and more sophisticated techniques in patient care.

6 NEW SECTION. Section 2. Definitions. As used in  
 7 [sections 1, 2, and 4 through 13], the following definitions  
 8 apply:

9 (1) "Board" means the board of respiratory care  
 10 practitioners established in [section 3].

11 (2) "Qualified medical direction" means the direction  
 12 of:

13 (a) a medical director of an inpatient or outpatient  
 14 respiratory care service, a respiratory care department, or  
 15 a home-care agency; or

16 (b) a licensed physician with a special interest and  
 17 knowledge about the diagnosis and treatment of respiratory  
 18 problems.

19 (3) (a) "Respiratory care" means the care provided by a  
 20 member of the allied health profession responsible for the  
 21 treatment, management, diagnostic testing, and control of  
 22 patients with deficiencies and abnormalities associated with  
 23 the cardiopulmonary system. The term includes but is not  
 24 limited to:

25 (i) administration of pharmacological, diagnostic, and

1 therapeutic agents related to respiratory care procedures  
 2 that are necessary to implement a treatment, disease  
 3 prevention, pulmonary rehabilitative, or diagnostic regimen  
 4 prescribed by a physician;

5 (ii) transcription and implementation of the written or  
 6 verbal orders of a physician regarding the practice of  
 7 respiratory care;

8 (iii) observation and monitoring of a patient's signs  
 9 and symptoms, general behavior, and physical response to  
 10 respiratory care treatment and diagnostic testing, including  
 11 determination of abnormal characteristics;

12 (iv) implementation of respiratory care protocols  
 13 pursuant to a prescription by a physician; and

14 (v) initiation of emergency procedures prescribed by  
 15 board rules.

16 (b) Respiratory care is not limited to a hospital  
 17 setting but must be performed pursuant to a physician's  
 18 order and under qualified medical direction. The term  
 19 includes inhalation and respiratory therapy.

20 (4) "Respiratory care practitioner" means a person who  
 21 has the knowledge and skill necessary to administer  
 22 respiratory care and who is licensed under the provisions of  
 23 [sections 6 through 10].

24 (5) "Student respiratory care practitioner" means a  
 25 person:

1 (a) enrolled in a respiratory care educational program  
2 recognized by the joint review committee for respiratory  
3 therapy education and the American medical association's  
4 committee on allied health education and accreditation, or  
5 their successors;

6 (b) permitted to provide respiratory care under  
7 clinical supervision; and

8 (c) identified as a student respiratory care  
9 practitioner or "SRCP".

10 NEW SECTION. Section 3. Board of respiratory care  
11 practitioners. (1) There is a board of respiratory care  
12 practitioners. The board consists of five members appointed  
13 by the governor. Each member must be a citizen of the United  
14 States and a resident of this state. The governor may  
15 request advice from the Montana society for respiratory care  
16 in making appointments to the board.

17 (2) The board consists of:

18 (a) three respiratory care practitioners, each of whom  
19 has engaged in the practice of respiratory care for a period  
20 of at least 3 years immediately preceding their appointment  
21 to the board. At least one of these members must have passed  
22 the registry examination for respiratory therapists  
23 administered by the national board for respiratory care and  
24 at least one of these members must have passed the  
25 entry-level examination for respiratory therapy technicians

1 administered by the national board for respiratory care.

2 (b) one physician licensed in Montana who has a special  
3 interest in the treatment of cardiopulmonary diseases; and

4 (c) one member of the public who is not a member of a  
5 health care profession.

6 (3) The board is a quasi-judicial board. Members are  
7 appointed, serve, are compensated, and are subject to  
8 removal as provided in 2-15-124.

9 (4) The board is allocated to the department of  
10 commerce for administrative purposes only as provided in  
11 2-15-121.

12 NEW SECTION. Section 4. Board meetings -- procedure --  
13 seal. (1) The board shall meet at least once a year and  
14 shall elect annually a president, vice president, and  
15 secretary-treasurer from its membership. The board may  
16 convene at the request of the president or at other times  
17 the board determines necessary to transact its business.

18 (2) The board shall adopt a seal by which the board may  
19 authenticate its documents.

20 NEW SECTION. Section 5. Board powers and duties. (1)  
21 The board shall:

22 (a) examine, license, grant temporary permits, and  
23 renew the licenses or permits of duly qualified applicants;

24 (b) establish examinations and passing scores for  
25 licensure under [section 7];

1 (c) adopt and implement rules for continuing education  
2 requirements to ensure the quality of respiratory care.

3 (2) The board may:

4 (a) adopt rules necessary to implement the provisions  
5 of [sections 1, 2 and 4 through 13]; and

6 (b) establish relicensing requirements and procedures  
7 that the board considers appropriate.

8 **NEW SECTION. Section 6. License required -- exceptions**  
9 **-- respiratory care not the practice of medicine.** (1) Except  
10 as otherwise provided in [sections 1, 2, and 4 through 13],  
11 a person may not practice respiratory care or represent  
12 himself to be a respiratory care practitioner unless he is  
13 licensed or granted a temporary permit under the provisions  
14 of [sections 6 through 9].

15 (2) [Sections 1, 2, and 4 through 13] do not prohibit:

16 (a) the practice of respiratory care that is an  
17 integral part of study by a student respiratory care  
18 practitioner;

19 (b) self-care by a patient or the gratuitous care by a  
20 friend or family member who does not hold himself out to be  
21 a respiratory care practitioner; or

22 (c) respiratory care rendered in the course of an  
23 emergency.

24 (3) Nothing in [sections 1, 2, and 4 through 13] is  
25 intended to limit, preclude, or interfere with the practice

1 of other persons and health care providers licensed by the  
2 appropriate agencies of the state of Montana.

3 (4) Nothing in [sections 1, 2, and 4 through 13] may be  
4 construed to permit the practice of medicine.

5 **NEW SECTION. Section 7. Licensing requirements --**  
6 **examination -- fees.** (1) To be eligible for licensure by the  
7 board as a respiratory care practitioner, the applicant  
8 shall:

9 (a) submit to the board an application fee in an amount  
10 established by the board and a written application on a form  
11 provided by the board demonstrating that the applicant has  
12 completed:

13 (i) high school or the equivalent; and

14 (ii) a respiratory care educational program accredited  
15 or provisionally accredited by the American medical  
16 association's committee on allied health education and  
17 accreditation in collaboration with the joint review  
18 committee for respiratory therapy education or their  
19 successor organizations; and

20 (b) pass an examination prescribed by the board, unless  
21 the examination requirement is waived under subsection (2).  
22 The board may use the entry-level examination written by the  
23 national board for respiratory care or another examination  
24 that satisfies the standards of the national commission for  
25 health certifying agencies or the commission's equivalent.

1 (2) The board may issue a license to practice  
2 respiratory care to an applicant without requiring him to  
3 pass an examination if the applicant:

4 (a) is currently licensed to practice respiratory care  
5 under the laws of another state, territory, or country if  
6 the board considers the qualifications for licensure to be  
7 equivalent to those required in this state; or

8 (b) holds credentials, conferred by the national board  
9 for respiratory care, as a certified respiratory therapy  
10 technician or a registered respiratory therapist and affirms  
11 under oath that his credentials have not been suspended or  
12 revoked.

13 (3) A person holding a license to practice respiratory  
14 care in this state may use the title "respiratory care  
15 practitioner" and the abbreviation "RCP".

16 NEW SECTION. Section 8. Renewal of license --  
17 application and fee. (1) A respiratory care practitioner's  
18 license expires 1 year from the date of issuance.

19 (2) A licensee may renew his license by:

20 (a) filing an application with the board on a form  
21 approved by the board;

22 (b) paying a renewal fee in an amount established by  
23 the board; and

24 (c) documenting that he has completed the continuing  
25 education requirements prescribed by the board.

1 (3) An application for renewal of a license made within  
2 90 days after expiration of the license is timely, and the  
3 rights and privileges of the applicant remain in effect  
4 during that period.

5 NEW SECTION. Section 9. Temporary permit. (1) The  
6 board may issue a temporary permit to practice respiratory  
7 care for a period of 1 year, pending receipt of an  
8 application for licensure and upon payment of a temporary  
9 permit fee in an amount established by the board. To receive  
10 the permit, the applicant shall demonstrate in writing,  
11 confirmed by oath, that he:

12 (a) has applied for licensure by reciprocity pursuant  
13 to [section 7(2)]. If the board considers the application  
14 and denies it, the temporary permit shall lapse.

15 (b) has taken the examination for licensure and is  
16 awaiting the results; or

17 (c) is a student respiratory care practitioner who  
18 expects to graduate within 30 calendar days of his  
19 application.

20 (2) Upon expiration of the permit and payment of an  
21 additional fee in an amount established by the board, the  
22 board may issue a permit for an additional period not to  
23 exceed 1 year pending reexamination or compliance with the  
24 provisions of [section 7].

25 (3) An applicant who reapplies for a temporary permit

1 after he has abandoned a previous application is not  
2 entitled to a permit.

3 NEW SECTION. Section 10. Revocation, suspension, or  
4 refusal to renew license. The board may, after notice and  
5 hearing, revoke, suspend, or refuse to issue a license or  
6 permit; refuse to renew a license to practice respiratory  
7 care; or take other appropriate disciplinary action if the  
8 board finds that an applicant or respiratory care  
9 practitioner:

10 (1) is guilty of fraud or material misrepresentation in  
11 obtaining or attempting to obtain a license or renew a  
12 license to practice respiratory care;

13 (2) is guilty of gross negligence, incompetency, or  
14 misconduct in the practice of respiratory care;

15 (3) is habitually intemperate in the use of narcotic  
16 drugs, alcohol, or any other drug or substance that impairs  
17 the user physically or mentally;

18 (4) has obtained, possessed, used, or distributed  
19 illegal drugs or narcotics;

20 (5) is guilty of unprofessional conduct as defined by  
21 the board or is guilty of moral turpitude;

22 (6) has practiced respiratory care after his license or  
23 permit has expired or been suspended or revoked;

24 (7) has practiced respiratory care under cover of any  
25 permit or license illegally or fraudulently obtained or

1 issued; or

2 (8) has aided or abetted others in the violation of any  
3 provision of this section or the rules adopted under this  
4 section.

5 NEW SECTION. Section 11. Duty to report violations --  
6 immunity from liability. (1) Notwithstanding any provision  
7 of state law regarding the confidentiality of health care  
8 information, a respiratory care practitioner shall report to  
9 the board any information that appears to show that another  
10 respiratory care practitioner is:

11 (a) mentally or physically unable to engage safely in  
12 the practice of respiratory care; or

13 (b) guilty of any act, omission, or condition that is  
14 grounds for disciplinary action under [section 10].

15 (2) There is no liability on the part of a respiratory  
16 care practitioner and no cause of action may arise against a  
17 respiratory care practitioner who in good faith provides  
18 information to the board as required by subsection (1).

19 NEW SECTION. Section 12. Penalty. A person convicted  
20 of violating any provision of [sections 1, 2, and 4 through  
21 13] is guilty of a misdemeanor and shall be fined an amount  
22 not to exceed \$500, or shall be imprisoned in a county jail  
23 for a term not to exceed 6 months, or both.

24 NEW SECTION. Section 13. Deposit of fees. All fees and  
25 money received by the department must be deposited in the



1 state special revenue fund for the board's use subject to  
2 37-1-101(6).

3 NEW SECTION. **Section 14. Licensure** -- grandfather  
4 provision. The board shall grant a license to practice  
5 respiratory care without examination or completion of the  
6 requisite educational program to a person who has been  
7 performing respiratory care in this state for at least 1  
8 year on [the effective date of this section].

9 NEW SECTION. **Section 15. Severability.** If a part of  
10 [this act] is invalid, all valid parts that are severable  
11 from the invalid part remain in effect. If a part of [this  
12 act] is invalid in one or more of its applications, the part  
13 remains in effect in all valid applications that are  
14 severable from the invalid applications.

15 NEW SECTION. **Section 16. Codification instruction.** (1)  
16 [Section 3] is intended to be codified as an integral part  
17 of Title 2, chapter 15, part 18, and the provisions of Title  
18 2, chapter 15, part 18, apply to [section 3].

19 (2) [Sections 1, 2, and 4 through 13] are intended to  
20 be codified as an integral part of Title 37 and the  
21 provisions of Title 37 apply to [sections 1, 2, and 4  
22 through 13].

23 NEW SECTION. **Section 17. Effective dates.** [Sections 3  
24 through 5, 14 through 16, and this section] are effective on  
25 passage and approval.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0620, as introduced.DESCRIPTION OF PROPOSED LEGISLATION:

An act regulating the practice of respiratory care; establishing a quasi-judicial Board of Respiratory Care Practitioners with rulemaking authority; requiring licensure or a temporary permit for respiratory care practitioners; requiring fees for a temporary permit and licenses which are deposited to the special revenue fund for the Board's use; providing penalties; requiring practitioners to report certain conduct and providing immunity for reporting; and providing effective dates.

ASSUMPTIONS:

1. During the first year, the Board of Respiratory Care Practitioners will license 300 persons, conduct 10 examinations, issue 30 temporary permits, and issue 5 inactive licenses. During the second year, the Board will issue 30 new licenses; conduct 10 examinations; renew 300 licenses; issue 30 temporary permits; process 10 late renewals; and process 5 inactive licenses.
2. The board will meet three times per year. The board will need two days to conduct its business.
3. Board expenses will include per diem, travel, supplies, communications, postage, printing and administrative overhead.
4. The Professional and Occupational Licensing Bureau (POL Bureau) will collect license fees and process the adoption of rules, applications and licenses, examinations, registry of licensees, administrative support for disciplinary procedures, reciprocity licenses, and board meetings. These additional services will require an additional 0.25 FTE in the POL Bureau. Administrative overhead charges for the above services must be reflected in the POL Bureau.

FISCAL IMPACT:Expenditures:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Personal Services	0	1,500	1,500	0	1,500	1,500
Operating Expenses	0	14,515	14,515	0	12,400	12,400
Equipment	0	750	750	0	0	0
Total	0	16,765	16,765	0	13,900	13,900


Funding:

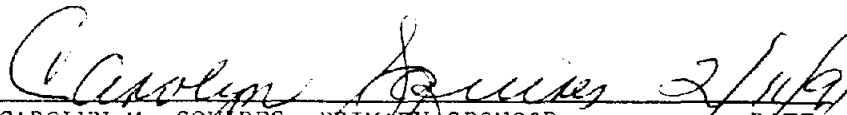
State Special Revenue	0	16,765	16,765	0	13,900	13,900
-----------------------	---	--------	--------	---	--------	--------

Revenues:

Practitioners fees (02)	0	23,600	23,600	0	19,700	19,700
-------------------------	---	--------	--------	---	--------	--------

<u>Net Effect:</u>	0	6,835	6,835	0	5,800	5,800
--------------------	---	-------	-------	---	-------	-------

  
 ROD SUNDSTED, BUDGET DIRECTOR      DATE 2-9-91  
 Office of Budget and Program Planning

  
 CAROLYN M. SQUIRES, PRIMARY SPONSOR      DATE 2/14/91  
 Fiscal Note for HB0620, as introduced      **HB620**

APPROVED BY COMM. ON  
HUMAN SERVICES AND AGING

1 *House* BILL NO. *620*  
2 INTRODUCED BY *Agnesa C. [unclear]*

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING THE PRACTICE  
5 OF RESPIRATORY CARE; ESTABLISHING A QUASI-JUDICIAL BOARD OF  
6 RESPIRATORY CARE PRACTITIONERS WITH RULEMAKING AUTHORITY;  
7 REQUIRING LICENSURE OR A TEMPORARY PERMIT FOR RESPIRATORY  
8 CARE PRACTITIONERS; REQUIRING FEES FOR A TEMPORARY PERMIT  
9 AND A LICENSE; PROVIDING THAT THE FEES ARE DEPOSITED TO THE  
10 SPECIAL REVENUE FUND FOR THE BOARD'S USE; PROVIDING  
11 PENALTIES; REQUIRING PRACTITIONERS TO REPORT CERTAIN CONDUCT  
12 AND PROVIDING IMMUNITY FOR REPORTING; AND PROVIDING  
13 EFFECTIVE DATES."

14  
15 STATEMENT OF INTENT

16 A statement of intent is required for this bill because  
17 [section 5] grants rulemaking authority to the board of  
18 respiratory care practitioners.

19 (1) In outlining the powers and responsibilities of the  
20 board of respiratory care practitioners, it is the intent of  
21 [section 5] that the board have authority to adopt rules to  
22 implement and enforce [sections 1, 2, and 4 through 13] and  
23 specific authority to adopt rules regarding:

24 (a) license and temporary permit applications and  
25 procedures necessary to receive and process those

1 applications;

2 (b) examinations and criteria for grading examinations;

3 (c) disciplinary standards for licensees and temporary  
4 permitholders, including definitions of conduct for which  
5 discipline may be appropriate;

6 (d) continuing education requirements;

7 (e) investigations of complaints;

8 (f) setting and modifying appropriate fees;

9 (g) a process for renewal of licenses and temporary  
10 permits, including procedures for late renewal;

11 (h) waiver of license requirements as provided in  
12 [section 7(2)]; and

13 (i) reciprocity conditions applicable to licensure.

14 (2) It is the intent of the legislature that the  
15 governor have the authority to implement staggered terms for  
16 board members during the appointment process.

17  
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 NEW SECTION. **Section 1.** Findings -- purpose. The  
20 legislature finds and declares that the practice of  
21 respiratory care in the state affects the public health,  
22 safety, and welfare. To protect the public from the  
23 unqualified practice of respiratory care or unprofessional  
24 conduct by qualified practitioners, respiratory care is  
25 subject to regulation and control. The purpose of [sections

SECOND READING

HB 620

1 1, 2, and 4 through 13] is to regulate the practice of  
 2 respiratory care. The legislature recognizes that the  
 3 practice of respiratory care is a dynamic and changing art  
 4 and science that is continually evolving to include new  
 5 ideas and more sophisticated techniques in patient care.

6 **NEW SECTION. Section 2. Definitions.** As used in  
 7 [sections 1, 2, and 4 through 13], the following definitions  
 8 apply:

9 (1) "Board" means the board of respiratory care  
 10 practitioners established in [section 3].

11 (2) "Qualified medical direction" means the direction  
 12 of:

13 (a) a medical director of an inpatient or outpatient  
 14 respiratory care service, a respiratory care department, or  
 15 a home-care agency; or

16 (b) a licensed physician with a special interest and  
 17 knowledge about the diagnosis and treatment of respiratory  
 18 problems.

19 (3) (a) "Respiratory care" means the care provided by a  
 20 member of the allied health profession responsible for the  
 21 treatment, management, diagnostic testing, and control of  
 22 patients with deficiencies and abnormalities associated with  
 23 the cardiopulmonary system. The term includes but is not  
 24 limited to:

25 (i) administration of pharmacological, diagnostic, and

1 therapeutic agents related to respiratory care procedures  
 2 that are necessary to implement a treatment, disease  
 3 prevention, pulmonary rehabilitative, or diagnostic regimen  
 4 prescribed by a physician;

5 (ii) transcription and implementation of the written or  
 6 verbal orders of a physician regarding the practice of  
 7 respiratory care;

8 (iii) observation and monitoring of a patient's signs  
 9 and symptoms, general behavior, and physical response to  
 10 respiratory care treatment and diagnostic testing, including  
 11 determination of abnormal characteristics;

12 (iv) implementation of respiratory care protocols  
 13 pursuant to a prescription by a physician; and

14 (v) initiation of emergency procedures prescribed by  
 15 board rules.

16 (b) Respiratory care is not limited to a hospital  
 17 setting but must be performed pursuant to a physician's  
 18 order and under qualified medical direction. The term  
 19 includes inhalation and respiratory therapy.

20 (4) "Respiratory care practitioner" means a person who  
 21 has the knowledge and skill necessary to administer  
 22 respiratory care and who is licensed under the provisions of  
 23 [sections 6 through 10].

24 (5) "Student respiratory care practitioner" means a  
 25 person:

1 (a) enrolled in a respiratory care educational program  
2 recognized by the joint review committee for respiratory  
3 therapy education and the American medical association's  
4 committee on allied health education and accreditation, or  
5 their successors;

6 (b) permitted to provide respiratory care under  
7 clinical supervision; and

8 (c) identified as a student respiratory care  
9 practitioner or "SRCP".

10 NEW SECTION. **Section 3. Board of respiratory care**  
11 **practitioners.** (1) There is a board of respiratory care  
12 practitioners. The board consists of five members appointed  
13 by the governor. Each member must be a citizen of the United  
14 States and a resident of this state. The governor may  
15 request advice from the Montana society for respiratory care  
16 in making appointments to the board.

17 (2) The board consists of:

18 (a) three respiratory care practitioners, each of whom  
19 has engaged in the practice of respiratory care for a period  
20 of at least 3 years immediately preceding their appointment  
21 to the board. At least one of these members must have passed  
22 the registry examination for respiratory therapists  
23 administered by the national board for respiratory care and  
24 at least one of these members must have passed the  
25 entry-level examination for respiratory therapy technicians

1 administered by the national board for respiratory care.

2 (b) one physician licensed in Montana who has a special  
3 interest in the treatment of cardiopulmonary diseases; and

4 (c) one member of the public who is not a member of a  
5 health care profession.

6 (3) The board is a quasi-judicial board. Members are  
7 appointed, serve, are compensated, and are subject to  
8 removal as provided in 2-15-124.

9 (4) The board is allocated to the department of  
10 commerce for administrative purposes only as provided in  
11 2-15-121.

12 NEW SECTION. **Section 4. Board meetings -- procedure --**  
13 **seal.** (1) The board shall meet at least once a year and  
14 shall elect annually a president, vice president, and  
15 secretary-treasurer from its membership. The board may  
16 convene at the request of the president or at other times  
17 the board determines necessary to transact its business.

18 (2) The board shall adopt a seal by which the board may  
19 authenticate its documents.

20 NEW SECTION. **Section 5. Board powers and duties.** (1)  
21 The board shall:

22 (a) examine, license, grant temporary permits, and  
23 renew the licenses or permits of duly qualified applicants;

24 (b) establish examinations and passing scores for  
25 licensure under [section 7];

1 (c) adopt and implement rules for continuing education  
2 requirements to ensure the quality of respiratory care.

3 (2) The board may:

4 (a) adopt rules necessary to implement the provisions  
5 of [sections 1, 2 and 4 through 13]; and

6 (b) establish relicensing requirements and procedures  
7 that the board considers appropriate.

8 NEW SECTION. Section 6. License required -- exceptions  
9 -- respiratory care not the practice of medicine. (1) Except  
10 as otherwise provided in [sections 1, 2, and 4 through 13],  
11 a person may not practice respiratory care or represent  
12 himself to be a respiratory care practitioner unless he is  
13 licensed or granted a temporary permit under the provisions  
14 of [sections 6 through 9].

15 (2) [Sections 1, 2, and 4 through 13] do not prohibit:

16 (a) the practice of respiratory care that is an  
17 integral part of study by a student respiratory care  
18 practitioner;

19 (b) self-care by a patient or the gratuitous care by a  
20 friend or family member who does not hold himself out to be  
21 a respiratory care practitioner; or

22 (c) respiratory care rendered in the course of an  
23 emergency.

24 (3) Nothing in [sections 1, 2, and 4 through 13] is  
25 intended to limit, preclude, or interfere with the practice

1 of other persons and health care providers licensed by the  
2 appropriate agencies of the state of Montana.

3 (4) Nothing in [sections 1, 2, and 4 through 13] may be  
4 construed to permit the practice of medicine.

5 NEW SECTION. Section 7. Licensing requirements --  
6 examination -- fees. (1) To be eligible for licensure by the  
7 board as a respiratory care practitioner, the applicant  
8 shall:

9 (a) submit to the board an application fee in an amount  
10 established by the board and a written application on a form  
11 provided by the board demonstrating that the applicant has  
12 completed:

13 (i) high school or the equivalent; and

14 (ii) a respiratory care educational program accredited  
15 or provisionally accredited by the American medical  
16 association's committee on allied health education and  
17 accreditation in collaboration with the joint review  
18 committee for respiratory therapy education or their  
19 successor organizations; and

20 (b) pass an examination prescribed by the board, unless  
21 the examination requirement is waived under subsection (2).  
22 The board may use the entry-level examination written by the  
23 national board for respiratory care or another examination  
24 that satisfies the standards of the national commission for  
25 health certifying agencies or the commission's equivalent.

1 (2) The board may issue a license to practice  
2 respiratory care to an applicant without requiring him to  
3 pass an examination if the applicant:

4 (a) is currently licensed to practice respiratory care  
5 under the laws of another state, territory, or country if  
6 the board considers the qualifications for licensure to be  
7 equivalent to those required in this state; or

8 (b) holds credentials, conferred by the national board  
9 for respiratory care, as a certified respiratory therapy  
10 technician or a registered respiratory therapist and affirms  
11 under oath that his credentials have not been suspended or  
12 revoked.

13 (3) A person holding a license to practice respiratory  
14 care in this state may use the title "respiratory care  
15 practitioner" and the abbreviation "RCP".

16 NEW SECTION. Section 8. Renewal of license --  
17 application and fee. (1) A respiratory care practitioner's  
18 license expires 1 year from the date of issuance.

19 (2) A licensee may renew his license by:

20 (a) filing an application with the board on a form  
21 approved by the board;

22 (b) paying a renewal fee in an amount established by  
23 the board; and

24 (c) documenting that he has completed the continuing  
25 education requirements prescribed by the board.

1 (3) An application for renewal of a license made within  
2 90 days after expiration of the license is timely, and the  
3 rights and privileges of the applicant remain in effect  
4 during that period.

5 NEW SECTION. Section 9. Temporary permit. (1) The  
6 board may issue a temporary permit to practice respiratory  
7 care for a period of 1 year, pending receipt of an  
8 application for licensure and upon payment of a temporary  
9 permit fee in an amount established by the board. To receive  
10 the permit, the applicant shall demonstrate in writing,  
11 confirmed by oath, that he:

12 (a) has applied for licensure by reciprocity pursuant  
13 to [section 7(2)]. If the board considers the application  
14 and denies it, the temporary permit shall lapse.

15 (b) has taken the examination for licensure and is  
16 awaiting the results; or

17 (c) is a student respiratory care practitioner who  
18 expects to graduate within 30 calendar days of his  
19 application.

20 (2) Upon expiration of the permit and payment of an  
21 additional fee in an amount established by the board, the  
22 board may issue a permit for an additional period not to  
23 exceed 1 year pending reexamination or compliance with the  
24 provisions of [section 7].

25 (3) An applicant who reapplies for a temporary permit

1 after he has abandoned a previous application is not  
2 entitled to a permit.

3 NEW SECTION. Section 10. Revocation, suspension, or  
4 refusal to renew license. The board may, after notice and  
5 hearing, revoke, suspend, or refuse to issue a license or  
6 permit; refuse to renew a license to practice respiratory  
7 care; or take other appropriate disciplinary action if the  
8 board finds that an applicant or respiratory care  
9 practitioner:

10 (1) is guilty of fraud or material misrepresentation in  
11 obtaining or attempting to obtain a license or renew a  
12 license to practice respiratory care;

13 (2) is guilty of gross negligence, incompetency, or  
14 misconduct in the practice of respiratory care;

15 (3) is habitually intemperate in the use of narcotic  
16 drugs, alcohol, or any other drug or substance that impairs  
17 the user physically or mentally;

18 (4) has obtained, possessed, used, or distributed  
19 illegal drugs or narcotics;

20 (5) is guilty of unprofessional conduct as defined by  
21 the board or is guilty of moral turpitude;

22 (6) has practiced respiratory care after his license or  
23 permit has expired or been suspended or revoked;

24 (7) has practiced respiratory care under cover of any  
25 permit or license illegally or fraudulently obtained or

1 issued; or

2 (8) has aided or abetted others in the violation of any  
3 provision of this section or the rules adopted under this  
4 section.

5 NEW SECTION. Section 11. Duty to report violations --  
6 immunity from liability. (1) Notwithstanding any provision  
7 of state law regarding the confidentiality of health care  
8 information, a respiratory care practitioner shall report to  
9 the board any information that appears to show that another  
10 respiratory care practitioner is:

11 (a) mentally or physically unable to engage safely in  
12 the practice of respiratory care; or

13 (b) guilty of any act, omission, or condition that is  
14 grounds for disciplinary action under [section 10].

15 (2) There is no liability on the part of a respiratory  
16 care practitioner and no cause of action may arise against a  
17 respiratory care practitioner who in good faith provides  
18 information to the board as required by subsection (1).

19 NEW SECTION. Section 12. Penalty. A person convicted  
20 of violating any provision of [sections 1, 2, and 4 through  
21 13] is guilty of a misdemeanor and shall be fined an amount  
22 not to exceed \$500, or shall be imprisoned in a county jail  
23 for a term not to exceed 6 months, or both.

24 NEW SECTION. Section 13. Deposit of fees. All fees and  
25 money received by the department must be deposited in the



1 state special revenue fund for the board's use subject to  
2 37-1-101(6).

3 NEW SECTION. **Section 14.** Licensure -- grandfather  
4 provision. The board shall grant a license to practice  
5 respiratory care without examination or completion of the  
6 requisite educational program to a person who has been  
7 performing respiratory care in this state for at least 1  
8 year on [the effective date of this section].

9 NEW SECTION. **Section 15.** Severability. If a part of  
10 [this act] is invalid, all valid parts that are severable  
11 from the invalid part remain in effect. If a part of [this  
12 act] is invalid in one or more of its applications, the part  
13 remains in effect in all valid applications that are  
14 severable from the invalid applications.

15 NEW SECTION. **Section 16.** Codification instruction. (1)  
16 [Section 3] is intended to be codified as an integral part  
17 of Title 2, chapter 15, part 18, and the provisions of Title  
18 2, chapter 15, part 18, apply to [section 3].

19 (2) [Sections 1, 2, and 4 through 13] are intended to  
20 be codified as an integral part of Title 37 and the  
21 provisions of Title 37 apply to [sections 1, 2, and 4  
22 through 13].

23 NEW SECTION. **Section 17.** Effective dates. [Sections 3  
24 through 5, 14 through 16, and this section] are effective on  
25 passage and approval.

-End-

1 *House* BILL NO. *620*  
2 INTRODUCED BY *Agnes C. Beck*  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING THE PRACTICE  
5 OF RESPIRATORY CARE; ESTABLISHING A QUASI-JUDICIAL BOARD OF  
6 RESPIRATORY CARE PRACTITIONERS WITH RULEMAKING AUTHORITY;  
7 REQUIRING LICENSURE OR A TEMPORARY PERMIT FOR RESPIRATORY  
8 CARE PRACTITIONERS; REQUIRING FEES FOR A TEMPORARY PERMIT  
9 AND A LICENSE; PROVIDING THAT THE FEES ARE DEPOSITED TO THE  
10 SPECIAL REVENUE FUND FOR THE BOARD'S USE; PROVIDING  
11 PENALTIES; REQUIRING PRACTITIONERS TO REPORT CERTAIN CONDUCT  
12 AND PROVIDING IMMUNITY FOR REPORTING; AND PROVIDING  
13 EFFECTIVE DATES."  
14

15 STATEMENT OF INTENT

16 A statement of intent is required for this bill because  
17 [section 5] grants rulemaking authority to the board of  
18 respiratory care practitioners.

19 (1) In outlining the powers and responsibilities of the  
20 board of respiratory care practitioners, it is the intent of  
21 [section 5] that the board have authority to adopt rules to  
22 implement and enforce [sections 1, 2, and 4 through 13] and  
23 specific authority to adopt rules regarding:

24 (a) license and temporary permit applications and  
25 procedures necessary to receive and process those

There are no changes in this bill,  
and will not be reprinted until  
reference copy. Please refer to  
introduced or second reading copy  
for complete text.



SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 21, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 620 (third reading copy -- blue), respectfully report that House Bill No. 620 be amended and as so amended be concurred in:

1. Page 6, line 6.

Following: "quasi-judicial board"

Insert: ", except that one member of the board need not be an attorney licensed to practice law in this state"

Signed   
Dorothy Eck, Chairman

*JCL* 3-21-91  
Am. Coord.

*SAB* 3-2 9:45  
Sec. of Senate

SENATE  
HB 620

## 1 HOUSE BILL NO. 620

2 INTRODUCED BY SQUIRES, WEEDING

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING THE PRACTICE  
5 OF RESPIRATORY CARE; ESTABLISHING A QUASI-JUDICIAL BOARD OF  
6 RESPIRATORY CARE PRACTITIONERS WITH RULEMAKING AUTHORITY;  
7 REQUIRING LICENSURE OR A TEMPORARY PERMIT FOR RESPIRATORY  
8 CARE PRACTITIONERS; REQUIRING FEES FOR A TEMPORARY PERMIT  
9 AND A LICENSE; PROVIDING THAT THE FEES ARE DEPOSITED TO THE  
10 SPECIAL REVENUE FUND FOR THE BOARD'S USE; PROVIDING  
11 PENALTIES; REQUIRING PRACTITIONERS TO REPORT CERTAIN CONDUCT  
12 AND PROVIDING IMMUNITY FOR REPORTING; AND PROVIDING  
13 EFFECTIVE DATES."

14  
15 STATEMENT OF INTENT

16 A statement of intent is required for this bill because  
17 [section 5] grants rulemaking authority to the board of  
18 respiratory care practitioners.

19 (1) In outlining the powers and responsibilities of the  
20 board of respiratory care practitioners, it is the intent of  
21 [section 5] that the board have authority to adopt rules to  
22 implement and enforce [sections 1, 2, and 4 through 13] and  
23 specific authority to adopt rules regarding:

24 (a) license and temporary permit applications and  
25 procedures necessary to receive and process those

1 applications;

2 (b) examinations and criteria for grading examinations;

3 (c) disciplinary standards for licensees and temporary  
4 permitholders, including definitions of conduct for which  
5 discipline may be appropriate;

6 (d) continuing education requirements;

7 (e) investigations of complaints;

8 (f) setting and modifying appropriate fees;

9 (g) a process for renewal of licenses and temporary  
10 permits, including procedures for late renewal;

11 (h) waiver of license requirements as provided in  
12 [section 7(2)]; and

13 (i) reciprocity conditions applicable to licensure.

14 (2) It is the intent of the legislature that the  
15 governor have the authority to implement staggered terms for  
16 board members during the appointment process.

17  
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 NEW SECTION. Section 1. Findings -- purpose. The  
20 legislature finds and declares that the practice of  
21 respiratory care in the state affects the public health,  
22 safety, and welfare. To protect the public from the  
23 unqualified practice of respiratory care or unprofessional  
24 conduct by qualified practitioners, respiratory care is  
25 subject to regulation and control. The purpose of [sections

1 1, 2, and 4 through 13] is to regulate the practice of  
 2 respiratory care. The legislature recognizes that the  
 3 practice of respiratory care is a dynamic and changing art  
 4 and science that is continually evolving to include new  
 5 ideas and more sophisticated techniques in patient care.

6 NEW SECTION. Section 2. Definitions. As used in  
 7 [sections 1, 2, and 4 through 13], the following definitions  
 8 apply:

9 (1) "Board" means the board of respiratory care  
 10 practitioners established in [section 3].

11 (2) "Qualified medical direction" means the direction  
 12 of:

13 (a) a medical director of an inpatient or outpatient  
 14 respiratory care service, a respiratory care department, or  
 15 a home-care agency; or

16 (b) a licensed physician with a special interest and  
 17 knowledge about the diagnosis and treatment of respiratory  
 18 problems.

19 (3) (a) "Respiratory care" means the care provided by a  
 20 member of the allied health profession responsible for the  
 21 treatment, management, diagnostic testing, and control of  
 22 patients with deficiencies and abnormalities associated with  
 23 the cardiopulmonary system. The term includes but is not  
 24 limited to:

25 (i) administration of pharmacological, diagnostic, and

1 therapeutic agents related to respiratory care procedures  
 2 that are necessary to implement a treatment, disease  
 3 prevention, pulmonary rehabilitative, or diagnostic regimen  
 4 prescribed by a physician;

5 (ii) transcription and implementation of the written or  
 6 verbal orders of a physician regarding the practice of  
 7 respiratory care;

8 (iii) observation and monitoring of a patient's signs  
 9 and symptoms, general behavior, and physical response to  
 10 respiratory care treatment and diagnostic testing, including  
 11 determination of abnormal characteristics;

12 (iv) implementation of respiratory care protocols  
 13 pursuant to a prescription by a physician; and

14 (v) initiation of emergency procedures prescribed by  
 15 board rules.

16 (b) Respiratory care is not limited to a hospital  
 17 setting but must be performed pursuant to a physician's  
 18 order and under qualified medical direction. The term  
 19 includes inhalation and respiratory therapy.

20 (4) "Respiratory care practitioner" means a person who  
 21 has the knowledge and skill necessary to administer  
 22 respiratory care and who is licensed under the provisions of  
 23 [sections 6 through 10].

24 (5) "Student respiratory care practitioner" means a  
 25 person:

1 (a) enrolled in a respiratory care educational program  
2 recognized by the joint review committee for respiratory  
3 therapy education and the American medical association's  
4 committee on allied health education and accreditation, or  
5 their successors;

6 (b) permitted to provide respiratory care under  
7 clinical supervision; and

8 (c) identified as a student respiratory care  
9 practitioner or "SRCP".

10 NEW SECTION. Section 3. Board of respiratory care  
11 practitioners. (1) There is a board of respiratory care  
12 practitioners. The board consists of five members appointed  
13 by the governor. Each member must be a citizen of the United  
14 States and a resident of this state. The governor may  
15 request advice from the Montana society for respiratory care  
16 in making appointments to the board.

17 (2) The board consists of:

18 (a) three respiratory care practitioners, each of whom  
19 has engaged in the practice of respiratory care for a period  
20 of at least 3 years immediately preceding their appointment  
21 to the board. At least one of these members must have passed  
22 the registry examination for respiratory therapists  
23 administered by the national board for respiratory care and  
24 at least one of these members must have passed the  
25 entry-level examination for respiratory therapy technicians

1 administered by the national board for respiratory care.

2 (b) one physician licensed in Montana who has a special  
3 interest in the treatment of cardiopulmonary diseases; and

4 (c) one member of the public who is not a member of a  
5 health care profession.

6 (3) The board is a quasi-judicial board, EXCEPT THAT  
7 ONE MEMBER OF THE BOARD NEED NOT BE AN ATTORNEY LICENSED TO  
8 PRACTICE LAW IN THIS STATE. Members are appointed, serve,  
9 are compensated, and are subject to removal as provided in  
10 2-15-124.

11 (4) The board is allocated to the department of  
12 commerce for administrative purposes only as provided in  
13 2-15-121.

14 NEW SECTION. Section 4. Board meetings -- procedure --  
15 seal. (1) The board shall meet at least once a year and  
16 shall elect annually a president, vice president, and  
17 secretary-treasurer from its membership. The board may  
18 convene at the request of the president or at other times  
19 the board determines necessary to transact its business.

20 (2) The board shall adopt a seal by which the board may  
21 authenticate its documents.

22 NEW SECTION. Section 5. Board powers and duties. (1)  
23 The board shall:

24 (a) examine, license, grant temporary permits, and  
25 renew the licenses or permits of duly qualified applicants;

1 (b) establish examinations and passing scores for  
2 licensure under [section 7];

3 (c) adopt and implement rules for continuing education  
4 requirements to ensure the quality of respiratory care.

5 (2) The board may;

6 (a) adopt rules necessary to implement the provisions  
7 of [sections 1, 2 and 4 through 13]; and

8 (b) establish relicensing requirements and procedures  
9 that the board considers appropriate.

10 NEW SECTION. Section 6. License required -- exceptions  
11 -- respiratory care not the practice of medicine. (1) Except  
12 as otherwise provided in [sections 1, 2, and 4 through 13],  
13 a person may not practice respiratory care or represent  
14 himself to be a respiratory care practitioner unless he is  
15 licensed or granted a temporary permit under the provisions  
16 of [sections 6 through 9].

17 (2) [Sections 1, 2, and 4 through 13] do not prohibit:

18 (a) the practice of respiratory care that is an  
19 integral part of study by a student respiratory care  
20 practitioner;

21 (b) self-care by a patient or the gratuitous care by a  
22 friend or family member who does not hold himself out to be  
23 a respiratory care practitioner; or

24 (c) respiratory care rendered in the course of an  
25 emergency.

1 (3) Nothing in [sections 1, 2, and 4 through 13] is  
2 intended to limit, preclude, or interfere with the practice  
3 of other persons and health care providers licensed by the  
4 appropriate agencies of the state of Montana.

5 (4) Nothing in [sections 1, 2, and 4 through 13] may be  
6 construed to permit the practice of medicine.

7 NEW SECTION. Section 7. Licensing requirements --  
8 examination -- fees. (1) To be eligible for licensure by the  
9 board as a respiratory care practitioner, the applicant  
10 shall:

11 (a) submit to the board an application fee in an amount  
12 established by the board and a written application on a form  
13 provided by the board demonstrating that the applicant has  
14 completed:

15 (i) high school or the equivalent; and

16 (ii) a respiratory care educational program accredited  
17 or provisionally accredited by the American medical  
18 association's committee on allied health education and  
19 accreditation in collaboration with the joint review  
20 committee for respiratory therapy education or their  
21 successor organizations; and

22 (b) pass an examination prescribed by the board, unless  
23 the examination requirement is waived under subsection (2).  
24 The board may use the entry-level examination written by the  
25 national board for respiratory care or another examination

1 that satisfies the standards of the national commission for  
2 health certifying agencies or the commission's equivalent.

3 (2) The board may issue a license to practice  
4 respiratory care to an applicant without requiring him to  
5 pass an examination if the applicant:

6 (a) is currently licensed to practice respiratory care  
7 under the laws of another state, territory, or country if  
8 the board considers the qualifications for licensure to be  
9 equivalent to those required in this state; or

10 (b) holds credentials, conferred by the national board  
11 for respiratory care, as a certified respiratory therapy  
12 technician or a registered respiratory therapist and affirms  
13 under oath that his credentials have not been suspended or  
14 revoked.

15 (3) A person holding a license to practice respiratory  
16 care in this state may use the title "respiratory care  
17 practitioner" and the abbreviation "RCP".

18 **NEW SECTION. Section 8. Renewal of license --**  
19 **application and fee.** (1) A respiratory care practitioner's  
20 license expires 1 year from the date of issuance.

21 (2) A licensee may renew his license by:

22 (a) filing an application with the board on a form  
23 approved by the board;

24 (b) paying a renewal fee in an amount established by  
25 the board; and

1 (c) documenting that he has completed the continuing  
2 education requirements prescribed by the board.

3 (3) An application for renewal of a license made within  
4 90 days after expiration of the license is timely, and the  
5 rights and privileges of the applicant remain in effect  
6 during that period.

7 **NEW SECTION. Section 9. Temporary permit.** (1) The  
8 board may issue a temporary permit to practice respiratory  
9 care for a period of 1 year, pending receipt of an  
10 application for licensure and upon payment of a temporary  
11 permit fee in an amount established by the board. To receive  
12 the permit, the applicant shall demonstrate in writing,  
13 confirmed by oath, that he:

14 (a) has applied for licensure by reciprocity pursuant  
15 to [section 7(2)]. If the board considers the application  
16 and denies it, the temporary permit shall lapse.

17 (b) has taken the examination for licensure and is  
18 awaiting the results; or

19 (c) is a student respiratory care practitioner who  
20 expects to graduate within 30 calendar days of his  
21 application.

22 (2) Upon expiration of the permit and payment of an  
23 additional fee in an amount established by the board, the  
24 board may issue a permit for an additional period not to  
25 exceed 1 year pending reexamination or compliance with the



1 provisions of [section 7].

2 (3) An applicant who reapplies for a temporary permit  
3 after he has abandoned a previous application is not  
4 entitled to a permit.

5 NEW SECTION. **Section 10.** Revocation, suspension, or  
6 refusal to renew license. The board may, after notice and  
7 hearing, revoke, suspend, or refuse to issue a license or  
8 permit; refuse to renew a license to practice respiratory  
9 care; or take other appropriate disciplinary action if the  
10 board finds that an applicant or respiratory care  
11 practitioner:

12 (1) is guilty of fraud or material misrepresentation in  
13 obtaining or attempting to obtain a license or renew a  
14 license to practice respiratory care;

15 (2) is guilty of gross negligence, incompetency, or  
16 misconduct in the practice of respiratory care;

17 (3) is habitually intemperate in the use of narcotic  
18 drugs, alcohol, or any other drug or substance that impairs  
19 the user physically or mentally;

20 (4) has obtained, possessed, used, or distributed  
21 illegal drugs or narcotics;

22 (5) is guilty of unprofessional conduct as defined by  
23 the board or is guilty of moral turpitude;

24 (6) has practiced respiratory care after his license or  
25 permit has expired or been suspended or revoked;

1 (7) has practiced respiratory care under cover of any  
2 permit or license illegally or fraudulently obtained or  
3 issued; or

4 (8) has aided or abetted others in the violation of any  
5 provision of this section or the rules adopted under this  
6 section.

7 NEW SECTION. **Section 11.** Duty to report violations --  
8 immunity from liability. (1) Notwithstanding any provision  
9 of state law regarding the confidentiality of health care  
10 information, a respiratory care practitioner shall report to  
11 the board any information that appears to show that another  
12 respiratory care practitioner is:

13 (a) mentally or physically unable to engage safely in  
14 the practice of respiratory care; or

15 (b) guilty of any act, omission, or condition that is  
16 grounds for disciplinary action under [section 10].

17 (2) There is no liability on the part of a respiratory  
18 care practitioner and no cause of action may arise against a  
19 respiratory care practitioner who in good faith provides  
20 information to the board as required by subsection (1).

21 NEW SECTION. **Section 12.** Penalty. A person convicted  
22 of violating any provision of [sections 1, 2, and 4 through  
23 13] is guilty of a misdemeanor and shall be fined an amount  
24 not to exceed \$500, or shall be imprisoned in a county jail  
25 for a term not to exceed 6 months, or both.

1        NEW SECTION.    **Section 13.** Deposit of fees. All fees and  
 2 money received by the department must be deposited in the  
 3 state special revenue fund for the board's use subject to  
 4 37-1-101(6).

5        NEW SECTION.    **Section 14.** Licensure    -- grandfather  
 6 provision. The board shall grant a license to practice  
 7 respiratory care without examination or completion of the  
 8 requisite educational program to a person who has been  
 9 performing respiratory care in this state for at least 1  
 10 year on [the effective date of this section].

11       NEW SECTION.    **Section 15.** Severability. If a part of  
 12 [this act] is invalid, all valid parts that are severable  
 13 from the invalid part remain in effect. If a part of [this  
 14 act] is invalid in one or more of its applications, the part  
 15 remains in effect in all valid applications that are  
 16 severable from the invalid applications.

17       NEW SECTION.    **Section 16.** Codification instruction. (1)  
 18 [Section 3] is intended to be codified as an integral part  
 19 of Title 2, chapter 15, part 18, and the provisions of Title  
 20 2, chapter 15, part 18, apply to [section 3].

21       (2) [Sections 1, 2, and 4 through 13] are intended to  
 22 be codified as an integral part of Title 37 and the  
 23 provisions of Title 37 apply to [sections 1, 2, and 4  
 24 through 13].

25       NEW SECTION.    **Section 17.** Effective dates. [Sections 3

1 through 5, 14 through 16, and this section] are effective on  
 2 passage and approval.

-End-