1984

Session Law 84-252

Florida Senate & House of Representatives

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**COMMITTEE RECORDS**

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**Senate/House Journals**

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**Committee/Floor Tapes**

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**Other Documentation**

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**NOTES**

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Florida Legislature

History of Legislation
1984 Regular Session

prepared by:

Joint Legislative Management Committee

Legislative Information Division
Capitol Building, Room 826 — 488-4371
manufacturer when new farm tractor does not conform to applicable express warranties, etc. Effective Date 10/01/84.

03/01/84 HOUSE Prefiled
03/02/84 HOUSE Referred to Judiciary
04/03/84 HOUSE Introduced, referred to Judiciary -HJ 00076
04/05/84 WKSE Subreferred to Subcommittee on Consumer, Probate, and Family Law
04/06/84 HOUSE On Committee agenda: Subcomm., Judiciary, 212 HOB, 1:15 pm, 04/10/84
04/13/84 HOUSE On Committee agenda: Judiciary, 317 C, 1:15 pm, 04/17/84
04/19/84 HOUSE Committee Report: Favorable with amendment placed on Calendar by Judiciary -HJ 00256
05/02/84 HOUSE Placed on Special Order Calendar
05/09/84 HOUSE Read second time: Amendments adopted -HJ 00348
05/10/84 HOUSE Read third time: Passed as amended: YEAS 111 NAYS 0 -HJ 00357
05/14/84 HOUSE In Messages
05/15/84 HOUSE Received, referred to Commerce, Economic, Community and Consumer Affairs -SJ 00261
05/28/84 SENATE Extension of time granted Committee Commerce
06/01/84 SENATE Died in Committee, Iden./Sim./Compare Bill passed, refer to HB 916 (Ch. 84-217)

H 0770 03/09/84 HOUSE Withdrawn -HJ 00076

H 0771 GENERAL BILL/CS by Corrections, Probation & Parole, Armstrong (Compare CS/H 0924, CS/S 0192, Eng/S 0380, S 0969)
Probation & Community Control: provides that circuit courts shall place defendants on probation under supervision of Corrections Dept., requires immediate commencement of probation or community control following incarceration under certain circumstances, etc. Amends 948.01, 03. Effective Date, Upon becoming law.
03/01/84 HOUSE Prefiled
03/02/84 HOUSE Referred to Corrections, Probation & Parole, Appropriations
04/03/84 HOUSE Introduced, referred to Corrections, Probation & Parole, Appropriations -HJ 00076, On Committee agenda - Subcomm., Corrections, 317 C, 2:15 pm, 04/04/84
04/06/84 HOUSE On Committee agenda: Corrections, 317 C, 1:15 pm, 04/11/84
04/17/84 HOUSE Committee Report: CS by Corrections, Probation & Parole -HJ 00226; Now in Appropriations
05/14/84 HOUSE Withdrawn from Appropriations -HJ 00413; Placed on Calendar
06/01/84 SENATE Died on Calendar, Iden./Sim./Compare Bill passed, refer to CS/SB 192 (Vetoed by Governor - 06/28/84)

H 0772 GENERAL BILL by Jameson and others (Identical S 0829)
Retirement System: adds certain detention care workers of H R S. Dept to special risk class of membership Amends 121 0915 Effective Date 10/01/84
03/01/84 HOUSE Prefiled
03/02/84 HOUSE Referred to Retirement, Personnel & Collective Bargaining, Appropriations
04/03/84 HOUSE Introduced, referred to Retirement, Personnel & Collective Bargaining, Appropriations -HJ 00076
04/10/84 HOUSE On Committee agenda: Subcomm., Retirement, 317 HOB, 1:15 pm, 04/12/84
04/17/84 HOUSE On Committee agenda: Subcomm., Retirement, 317 HOB, 1:15 pm, 04/19/84
04/24/84 HOUSE On Committee agenda: Retirement, 413 C, 8:30am, 04/26/84
05/03/84 HOUSE Committee Report: Unfavorable, laid on table under Rule by Retirement, Personnel & Collective Bargaining -HJ 00300

H 0773 LOCAL BILL by Lawson
Franklin Co./Dog Island: expands boundaries of Dog Island Conservation
CONTINUED ON NEXT PAGE

District Effective Date Contingent
03/01/84 HOUSE Prefiled
03/02/84 HOUSE Referred to Natural Resources, Community Affairs
03/14/84 HOUSE Subreferred to Subcommittee on Environmental Quality
04/03/84 HOUSE Introduced, referred to Natural Resources, Community Affairs -HJ 00076, Subreferred to Subcommittee on Environmental Quality
04/06/84 HOUSE On Committee agenda: Subcomm. Nat Resources, 413 C, 3:30pm, 04/09
04/09/84 HOUSE On Committee agenda, pending subcommittee action: Natural Resources, 413 C, 1:15 pm, 04/11/84
04/13/84 HOUSE Committee Report Favorable by Natural Resources -HJ 00230; Now in Community Affairs
04/23/84 HOUSE On Committee agenda: Community Affairs, 314 HOB, 1:15pm, 04/25/84
05/09/84 HOUSE Committee Report: Favorable, placed on Calendar by Community Affairs - HJ 00352
05/10/84 HOUSE Referred to House Calendar
05/14/84 HOUSE Read second and third times, Passed: YEAS 116 NAYS 0 - HJ 00384; Immediately certified
05/31/84 HOUSE In Messages
06/07/84 HOUSE Received, referred to Rules and Calendar -SJ 00333
05/29/84 SENATE Considered, placed on Local Calendar by Rules and Calendar -SJ 00490; Passed as amended: YEAS 34 NAYS 0 -SJ 00528
05/29/84 HOUSE In Messages
05/31/84 HOUSE Concurred: Passed as amended: YEAS 107 NAYS 0 -HJ 00924
06/06/84 HOUSE In Senate
06/07/84 HOUSE Signed by Officers and presented to Governor
06/23/84 HOUSE Became Law without Governor's Signature
Chapter No. 84-430

H 0774 GENERAL BILL/CS by Criminal Justice, Lehtinen, Coombe, Ros. Titone and others (Similar CS/S 0238, Compare H 0058, H 0073, H 0133, CS/H 0058, H 0743, S 0111, S 0811)
Victim & Witness Protection: expands provisions re victims' statements at sentencing proceedings; authorizes use in evidence of photographs of property wrongfully taken in crime, requires court to order restitution except in certain cases; provides for presence of victims at trial, etc. Amends F.S. Effective Date: 10/01/84.
03/01/84 HOUSE Prefiled
03/02/84 HOUSE Referred to Criminal Justice, Appropriations
03/07/84 HOUSE Subreferred to Subcommittee on Criminal Code
04/03/84 HOUSE Introduced, referred to Criminal Justice, Appropriations -HJ 00076; Subreferred to Subcommittee on Criminal Code
04/26/84 HOUSE Committee Report: CS by Criminal Justice -HJ 00266, CS combines this bill and SB 7474. In Appropriations
05/23/84 HOUSE On Committee agenda: Appropriations, 21 HOB, 10:00 am, 05/24/84
05/24/84 HOUSE On Committee agenda: Appropriations, 21 HOB, 8:15 am & after session, 05/25/84
05/28/84 HOUSE Committee Report: Favorable, placed on Calendar by Appropriations -HJ 00728
05/30/84 HOUSE Placed on Special Order Calendar
05/31/84 HOUSE Iden./Sim. Senate Bill substituted. Laid on table under Rule 8, Iden./Sim. Compare Bill passed, refer to CS/SB 238 (Ch. 84-363) & CS/HB 526 (Ch 84-103) -HJ 00959

H 0775 GENERAL BILL/CS by Regulatory Reform, Metcalf and others (Similar CS/S 0881)
Respiratory Care Act: creates Respiratory Care Act; creates Advisory Council on Respiratory Care under Medical Examiners Board, provides for qualification and eligibility for certification as respiratory therapy technician or registration as respiratory therapist, etc. Creates 468 401-417. Effective Date 10/01/84
03/01/84 HOUSE Prefiled
03/07/84 HOUSE Referred to Regulatory Reform, Finance & Taxation
03/02/84 HOUSE Referred to Regulatory Reform, Finance & Taxation, CONTINUED ON NEXT PAGE
03/02/84 HOUSE Referred to Retirement, Personnel & Collective Bargaining, Appropriations
04/03/84 HOUSE Introduced, referred to Retirement, Personnel & Collective Bargaining, Appropriations -HJ 00077
04/10/84 HOUSE On Committee agenda -- Subcomm. Retirement, 317 HOB. 1:15 pm, 04/12/84
04/13/84 HOUSE On Committee agenda -- Retirement, 317 C. 3 30 pm, 04/17/84
05/02/84 HOUSE Withdrawn from Appropriations -HJ 00286, Placed on Calendar
05/10/84 HOUSE Placed on Special Order Calendar
05/17/84 HOUSE Read second time; Passed; YEAS 99 NAYS 2 -HJ 00470; Immediately certified
05/18/84 SENATE Placed, referred to Governor, Then to Retirement and Collective Bargaining -SJ 00334
06/01/84 SENATE Died in Committee. Iden. /51. /Compare Bill passed, refer to SB 153 (Ch. 84-266)

H 0779 GENERAL BILL by Natural Resources, Arnold (Identical CS/S 0338, Compare CS/S 0383)

H 0780 GENERAL BILL by Arnold (Compare CS/S 0340)

H 0781 GENERAL BILL by Messersmith (Identical S 0389)

Health Studio Services Contracts: provides required provisions in contracts for sale of future health studio services: Increases required bonding amounts, provides criteria for issuance of occupational licenses; provides for escrow accounts, etc Amend 501 02, Effective Date 01/01/84.
03/01/84 HOUSE Referred to Retirement, Personnel & Collective Bargaining, Appropriations
04/03/84 HOUSE Introduced, referred to Retirement, Personnel & Collective Bargaining, Appropriations -HJ 00077
04/10/84 HOUSE On Committee agenda -- Subcomm. Retirement, 317 HOB.
1:15 pm, 04/12/84
04/13/84 HOUSE On Committee agenda -- Retirement, 317 C. 3 30 pm, 04/17/84
05/02/84 HOUSE Withdrawn from Appropriations -HJ 00286, Placed on Calendar
05/10/84 HOUSE Placed on Special Order Calendar
05/17/84 HOUSE Read second time; Passed; YEAS 99 NAYS 2 -HJ 00470; Immediately certified
05/18/84 SENATE Placed, referred to Governor, Then to Retirement and Collective Bargaining -SJ 00334
06/01/84 SENATE Died in Committee. Iden. /51. /Compare Bill passed, refer to SB 153 (Ch. 84-266)

H 0776 GENERAL BILL by Mackenzie

Land Acquisition: provides for use of ad val tax revenue to purchase certain lands, provides for placement of certain fees into Internal Improvement Trust Pd.; Increases money amt, which can be credited to Conservation & Rec. Land Trust Pd., etc Amend 125 01, 253 01, 023, 025, 375.031, 385.08. Effective Date 07/01/84.
03/01/84 HOUSE Prefiled
03/02/84 HOUSE Referred to Natural Resources, Finance & Taxation, Appropriations
03/14/84 HOUSE Subreferred to Subcommittee on Environmental Quality
04/03/84 HOUSE Introduced, referred to Natural Resources, Finance & Taxation, Appropriations -HJ 00077; Subreferred to Subcommittee on Environmental Quality
04/19/84 HOUSE Comm. Report. CS by Natural Resources -HJ 00236, Now in Finance & Taxation
04/24/84 HOUSE On Committee agenda -- For subreferral, 21 HOB, 8:30am, 04/26/84
05/11/84 HOUSE On Committee agenda -- F. & T.: 21 HOB. 3 30 pm, 05/15/84
05/18/84 HOUSE Comm. Report: CS by Finance & Taxation; CS combines this bill and 805; Laid on table under Rule, refer to CS/ H 805 (Laid on table; see CS/CFS/ S 803-Ch 84-330) -HJ 00486

H 0777 GENERAL BILL by Armstrong

State Lands: retroactively lengthens statute of limitations period for certain causes of action re state lands; retroactively excepts title to certain lands from operation of Marketable Record Title Act. Amend 95.031, 712 03. Effective Date: Upon becoming law.
03/01/84 HOUSE Prefiled
03/02/84 HOUSE Referred to Judiciary
04/03/84 HOUSE Introduced, referred to Judiciary -HJ 00077
04/23/84 HOUSE Subreferred to Subcommittee on Court Systems and Miscellaneous: On Committee agenda -- Subcomm. Judiciary-07. 212HOB, after full text, 4/25
05/11/84 HOUSE On Committee agenda -- Judiciary, 317 C. 8 00 am, 05/15/84
06/01/84 HOUSE Died in Committee on Judiciary

H 0778 GENERAL BILL by Johnson, B L. (Compare Eng/S 0153)

Retirement System, redefines term "continuous service" to provide continuous service for certain special risk members who resign to run for certain elected offices. Amend 121 021 Effective Date. 07/01/84
03/01/84 HOUSE Prefiled

CONTINUED ON NEXT PAGE
0876 GENERAL BILL/CS by Natural Resources and Conservation, McPherson
(Similar CS/H 0338. Compare CS/H 0177, CS/S 0081)

Vessels: provides procedures for registering & classifying vessels; provides for deposit & use of certain fees; increases dealer registration fees, requires title application, to be made to co-tax collector, provides procedures for acquiring vessel title, etc. Amends 327.13, 25, 28. 328.01, 03, 11 Effective Date 07/01/84.

05/01/84 SENATE Committee agenda- Nature Res & Cons., 05/03/84, 9:00 am, Rm. H

05/03/84 SENATE Comm. Report: CS by Natural Resources and Conservation, Finance, Taxation and Claims -SJ 00113, 05/04/84 SENATE Now in Finance, Taxation and Claims -SJ 00234; On Committee agenda- Finance, Tax & Claims, 05/07/84, 2:30 pm, Rm. 1C

05/07/84 SENATE Comm. Report: Favorable, placed on Calendar by Finance, Taxation and Claims -SJ 00234

05/23/84 SENATE Extension of time granted Committee Natural Resources and Conservation, Finance, Taxation and Claims -SJ 00113

05/23/84 SENATE Received, referred to Natural Resources, Appropriations -HJ 00849

06/01/84 SENATE Died in Committee, Iden /Sim./Compare Bill passed, refer to CS/SB 81 (Ch 8-84)

S 0878 GENERAL BILL/CS by Health and Rehabilitative Services, Childers, Don

Abuse of Children & Other Persons: provides for psychological or psychiatric evaluation of parents/guardians in certain cases, provides for reporting of child abuse or neglect by hospitals & health units & designates of staff physician as liaison in such cases, etc. Amends F 5 Effective Date 10/01/84.

04/10/84 SENATE Filed

04/12/84 SENATE Introduced, referred to Health and Rehabilitative Services, Judiciary-Civil, Appropriations -SJ 00113

04/25/84 SENATE Extension of time granted Committee Health and Rehabilitative Services

05/02/84 SENATE On Committee agenda- HRS, 05/03/84, Did not reach

05/03/84 SENATE On Committee agenda- HRS, 05/04/84, 9:00 am, Rm. A

05/04/84 SENATE Extension of time granted Committee Health and Rehabilitative Services

05/09/84 SENATE Comm. Report: CS by Health and Rehabilitative Services -SJ 00254, CS read first time 05/15/84 -SJ 00256

05/11/84 SENATE Now in Judiciary-Civil -SJ 00254

05/25/84 SENATE Extension of time granted Committee Judiciary-Civil

05/31/84 SENATE Withdrawn from Judiciary-Civil -SJ 00598; Now in Appropriations

06/01/84 SENATE Withdrawn from Appropriations -SJ 00688, placed on Calendar, placed on Special Order Calendar -SJ 00179, Iden /Sim./House Bill substituted, laid on table, refer to CS/HH 873 (Died/Messages); see CS/HH 988 (84-226) -SJ 00913

S 0879 GENERAL BILL/CS by Economic, Community and Consumer Affairs, Malchon

(Honors the Florida Tribe of Eastern Creek)

04/10/84 SENATE Filed

04/12/84 SENATE Introduced, referred to Rules and Calendar -SJ 00113

04/24/84 SENATE Considered, placed on Local Calendar by Rules and Calendar -SJ 00119

04/25/84 SENATE Passed, YEAS 37 NAYS 0 -SJ 00171

05/01/84 SENATE In Messages

05/02/84 SENATE Received, referred to Finance & Taxation -HJ 00279

05/18/84 SENATE Withdrawn from Finance & Taxation -HJ 00471, Placed on Calendar

05/25/84 SENATE Placed on Local Calendar

06/01/84 SENATE In Messages, Concurred, passed as amended; YEAS 33 NAYS 0

06/01/84 SENATE Ordered engrossed, then enrolled -SJ 00933

06/14/84 SENATE Signed by Officers and presented to Governor

06/30/84 SENATE Became Law without Governor's Signature

Chapter No 84-458

S 0880 RESOLUTION by Childers, W D (Similar H 1155, S 0555)

Eastern Creek Indians: honors the Florida Tribe of Eastern Creek Indians

04/10/84 SENATE Filed

04/12/84 SENATE Introduced, referred to Rules and Calendar, Withdrawn from Rules and Calendar, placed on Special Order Calendar, Adopted, YEAS 38 NAYS 0 -SJ 00171

S 0881 GENERAL BILL/CS by Economic, Community and Consumer Affairs, Malchon

(Similar CS/H 0775)

04/10/84 SENATE Filed

04/12/84 SENATE Introduced, referred to Rules and Calendar -SJ 00113

04/24/84 SENATE Considered, placed on Local Calendar by Rules and Calendar -SJ 00119

04/25/84 SENATE Passed, YEAS 37 NAYS 0 -SJ 00171

05/01/84 SENATE In Messages

05/02/84 SENATE Received, referred to Finance & Taxation -HJ 00279

05/18/84 SENATE Withdrawn from Finance & Taxation -HJ 00471, Placed on Calendar

05/25/84 SENATE Placed on Local Calendar

06/01/84 SENATE In Messages, Concurred, passed as amended; YEAS 33 NAYS 0

06/01/84 SENATE Ordered engrossed, then enrolled -SJ 00933

06/14/84 SENATE Signed by Officers and presented to Governor

06/30/84 SENATE Became Law without Governor's Signature

Chapter No 84-458

06/01/84 SENATE In Messages, Concurred, passed as amended; YEAS 33 NAYS 0

06/01/84 SENATE Ordered engrossed, then enrolled -SJ 00933

06/14/84 SENATE Signed by Officers and presented to Governor

06/30/84 SENATE Became Law without Governor's Signature

Chapter No 84-458

05/02/84 SENATE On Committee agenda- HRS, 05/03/84, Did not reach

05/03/84 SENATE On Committee agenda- HRS, 05/04/84, 9:00 am, Rm. A

05/04/84 SENATE Extension of time granted Committee Health and Rehabilitative Services

05/09/84 SENATE Comm. Report: CS by Health and Rehabilitative Services -SJ 00254, CS read first time 05/15/84 -SJ 00256

05/11/84 SENATE Now in Judiciary-Civil -SJ 00254

05/25/84 SENATE Extension of time granted Committee Judiciary-Civil

05/31/84 SENATE Withdrawn from Judiciary-Civil -SJ 00598; Now in Appropriations

06/01/84 SENATE Withdrawn from Appropriations -SJ 00688, placed on Calendar, placed on Special Order Calendar -SJ 00179, Iden /Sim./House Bill substituted, laid on table, refer to CS/HH 873 (Died/Messages); see CS/HH 988 (84-226) -SJ 00913

S 0878 LOCAL BILL by Johnston (Identical Eng/H 1142)

Palm Beach Co Development Authority: amends provisions re Lake Worth Development Authority, provides for additional license & tax increases tax rate from 1 mill to 2 mills on each dollar of tax base to commence fiscal year beginning 10/1/84, following approval by referendum, etc

Effective Date Contingent

CONTINUED ON NEXT PAGE
substituted -SJ 00837.  Laid on table under Rule, Iden /Sim /Compare Bill passed, refer to CS/HB 775 (Ch 84-252) -SJ 00938

S 0882 LOCAL BILL by Myers (Similar S 0040)  Palm Beach Co /Relief/Hofmeister, authorizes & directs Sheriff of Palm Beach Co to compensate Caroline Elizabeth Hofmeister for personal injuries suffered due to negligence of an employee of said Sheriff.  Effective Date 06/30/84

S 0884 GENERAL BILL by Gordon and others (Compare CS/H 0828, CH 1214, H 1270.  CS/S 0923)  Postsecondary Education, broadens definition of "adult general education," requires that certain courses be evaluated & funded.  Continued on next page

S 0886 GENERAL BILL/CS by Transportation, Beard (Compare CS/H 0529, Eng/S 0352)  Transportation Department Contracts, provides that suits by & against dept must be commenced within 3 years after final acceptance of work; permits certain counterclaims to be maintained against dept under specified conditions, provides for retroactivity Amends F S Effective Date Upon becoming law

S 0887 GENERAL BILL/CS by Natural Resources and Conservation, Thurman (Similar H 1288)  Cross Florida Harbor Canal: provides for retention or transfer of state-owned lands; redefines boundaries of Ocala National Forest, directs D N R to offer certain surplus lands to counties, extend 2nd right of refusal to original owners, & extend 3rd right to persons with leasehold interests, etc.  Effective Date: 07/01/84

S 0888 CONCURRENT RESOLUTION by Neal and others (Identical H 1211)  New College Music Festival for its history of achievement of musical excellence & enhancement of cultural richness & diversity of state & acknowledges it as the Teaching & Performing Festival of the state

06/14/84 SENATE Effective Date 06/13/84

05/11/84 SENATE CS combines this bill and 1081; CS by Education -SJ 00253; CS read first time 05/16/84 - SJ 00281

05/15/84 SENATE Now in Appropriations -SJ 00253, On Committee agenda- Appropriations, 05/15/84, 2:00 pm, Rm A.  CS combines this bill and 923,CS/836&cS/1081, Comm Report CS placed on Calendar by Appropriations -SJ 00340

05/23/84 SENATE CS read first time - SJ 00344; Placed on Special Order Calendar.  Laid on table under Rule, refer to CS/ SB 923 (Ch. 84-336) - SJ 00374
BILL SUMMARY

COMMITTEE ON REGULATORY REFORM

House Bill 775

relating to Respiratory Care

Other Committees of Reference:

Subcommittee: __________

Committee: __________

I. SUMMARY AND PURPOSE

The purpose of HB 775 is to provide a regulatory scheme for the practice of respiratory care in an institutional or home setting.

II. CURRENT LAW AND EFFECT OF CHANGES

A. Current Law

There is no statute currently which provides for the regulation of the respiratory care profession generally. Chapter 483, F.S., entitled "The Florida Clinical Laboratory Law", as amended by Chapter 83-276, Laws of Florida, includes a "blood gas analyst" in its definition of "clinical laboratory personnel." The Act provides for the regulation of such clinical lab personnel by the Department of Health and Rehabilitative Services. Respiratory care professionals functioning in other capacities and settings, are not addressed by this statute or any other currently.

B. Effect of Proposed Changes

HB 775 enacts the "Respiratory Care Practice Act" by creating Part VI of Chapter 468, F.S. HB 775 requires demonstration of competency at the respiratory therapy technician level as a prerequisite for the practice of respiratory care in the State of Florida.
A nine member board is established within the Department of Professional Regulation (DPR), to administer the provisions of the Act. HB 775 amends s. 20.30, F.S., related to DPR, to add the Board of Respiratory Care to the regulatory boards within the Division of Professions of DPR.

Provision is made for the future repeal of the "Respiratory Care Practice Act" on October 1, 1994, with a Sunset review to occur prior to that date. An effective date of October 1, 1984, is stipulated for the Act.

A section by section outline of HB 775 follows:

Section 1. Amends s. 20.30, F.S., to add the Board of Respiratory Care to the regulatory boards within DPR.

Section 2. Creates Part VI of Chapter 468, F.S., to consist of s. 468.401-468.417, F.S.

The specific sections of Part VI are:

468.401  - Purpose
468.402  - Short Title
468.403  - Definitions
468.404  - Board of Respiratory Care; rules; membership; terms; organization; meetings; quorum.
468.405  - Eligibility for licensure.
468.406  - Licensure by examination.
468.407  - Licensure by endorsement.
468.408  - Title and abbreviations.
468.409  - Renewal of license.
468.410  - Inactive Status; reactivation of license.
468.411  - Disposition of fees.
468.412  - Disciplinary proceedings.
468.413  - Penalties for violations.
468.414 - Injunctive relief.
468.415 - Approval of educational programs.
468.416 - Continuing education.
468.417 - Exemptions.

Section 3. Repeals s. 468.404, related to the Board of Respiratory Care, on October 1, 1994, and mandates a review prior to the repeal date by the Legislature pursuant to s. 11.611, F.S., the Sundown Act.

Section 4. Stipulates a repeal date of October 1, 1994, for Part VI of Chapter 468, F.S., as created by this bill, and requires a review by the Legislature prior to the repeal date pursuant to s. 11.61, F.S., the Regulatory Sunset Act.

Section 5. Provides an effective date for the Act of October 1, 1984.

III. FISCAL DATA

A. Public Sector Considerations

The cost of regulating the practice of respiratory care will be paid by those being regulated. The Department of Professional Regulation (DPR) projects the costs of regulating the approximately 4,000 respiratory care professionals, currently practicing, to be $199,772 during the first year, and $275,367 during each of the second and third years.

It can be concluded that these licensure costs may be directly or indirectly passed on to the consuming public.

B. Private Sector Considerations

Each person desiring to be licensed under this act would be required to pay specified fees prior to practicing respiratory care. The fees assessed would be established by board rule. Section 468.411, created by this bill, requires that the fees assessed be based upon the costs of regulation. The DPR cost projection for administration of the regulation indicates the necessity for fees in these
amounts: application fee of $20; examination fee of $65; initial license fee of $75, and a renewal fee of $75.

IV. AMENDMENTS

None.

V. COMMENTS

Respiratory care professionals are health care practitioners who, under medical direction, perform assessment, treatment, management, and diagnostic evaluation measures in the care of patients with deficiencies, abnormalities, and diseases of the cardiopulmonary system. Specific examples of the range of measures performed by respiratory care professionals are the taking of arterial blood samples, maintenance of life support systems in hospital intensive care units, and delivery of inhalation therapy to patients with emphysema.

The only credentialing system for respiratory care professionals currently is a voluntary one through the auspices of the National Board for Respiratory Care. Approximately 1825 of the 3700-4000 respiratory health care practitioners employed in Florida currently, have met the requirements involved in the national professional association's voluntary credentialing system. The remainder are graduates who have not participated in the credentialing program or are individuals who have received "on-the-job" training in respiratory care.

Voluntary credentialing is possible through the national association for the respiratory therapy technician, respiratory therapist, and pulmonary function technologist categories. It is reported that 47% of the respiratory care professionals are credentialed, compared with a reported national figure of 30%.

Prepared by: Edith Dunlap, Legislative Research Assistant

Staff Director: Chris Holland, Ph.D.

CH/njd
House Bill 775
relating to Respiratory Care

Other Committees of Reference:
Subcommittee: 
Committees: Finance & Taxation, Appropriations

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The purpose of HB 775 is to provide a regulatory scheme for the practice of respiratory care in an institutional or home setting.

II. CURRENT LAW AND EFFECT OF CHANGES
A. Current Law
There is no statute currently which provides for the regulation of the respiratory care profession generally. Chapter 483, F.S., entitled "The Florida Clinical Laboratory Law", as amended by Chapter 83-276, Laws of Florida, includes a "blood gas analyst" in its definition of "clinical laboratory personnel." The Act provides for the regulation of such clinical lab personnel by the Department of Health and Rehabilitative Services. Respiratory care professionals functioning in other capacities and settings, are not addressed by this statute or any other currently.

B. Effect of Proposed Changes
HB 775 enacts the "Respiratory Care Practice Act" by creating Part VI of Chapter 468, F.S. HB 775 requires demonstration of competency at the respiratory therapy...
technician level as a prerequisite for the practice of respiratory care in the State of Florida.

A nine member board is established within the Department of Professional Regulation (DPR), to administer the provisions of the Act. HB 775 amends s. 20.30, F.S., related to DPR, to add the Board of Respiratory Care to the regulatory boards within the Division of Professions of DPR.

Provision is made for the future repeal of the "Respiratory Care Practice Act" on October 1, 1994, with a Sunset review to occur prior to that date. An effective date of October 1, 1984, is stipulated for the Act.

A section by section outline of HB 775 follows:

Section 1. Amends s. 20.30, F.S., to add the Board of Respiratory Care to the regulatory boards within DPR.

Section 2. Creates Part VI of Chapter 468, F.S., to consist of s. 468.401-468.417, F.S.

The specific sections of Part VI are:

468.401 - Purpose
468.402 - Short Title
468.403 - Definitions
468.404 - Board of Respiratory Care; rules; membership; terms; organization; meetings; quorum.
468.405 - Eligibility for licensure.
468.406 - Licensure by examination.
468.407 - Licensure by endorsement.
468.408 - Title and abbreviations.
468.409 - Renewal of license.
468.410 - Inactive Status; reactivation of license.
468.411 - Disposition of fees.
468.412 - Disciplinary proceedings.
468.413 - Penalties for violations.
468.414 - Injunctive relief.
468.415 - Approval of educational programs.
468.416 - Continuing education.
468.417 - Exemptions.

Section 3. Repeals s. 468.404, related to the Board of Respiratory Care, on October 1, 1994, and mandates a review prior to the repeal date by the Legislature pursuant to s. 11.611, F.S., the Sundown Act.

Section 4. Stipulates a repeal date of October 1, 1994, for Part VI of Chapter 468, F.S., as created by this bill, and requires a review by the Legislature prior to the repeal date pursuant to s. 11.61, F.S., the Regulatory Sunset Act.

Section 5. Provides an effective date for the Act of October 1, 1984.

III. FISCAL DATA

A. Public Sector Considerations

The cost of regulating the practice of respiratory care will be paid by those being regulated. The Department of Professional Regulation (DPR) projects the costs of regulating the approximately 4,000 respiratory care professionals, currently practicing, to be $199,772 during the first year, and $275,367 during each of the second and third years.

It can be concluded that these licensure costs may be directly or indirectly passed on to the consuming public.

B. Private Sector Considerations

Each person desiring to be licensed under this act would be required to pay specified fees prior to practicing respiratory care. The fees assessed would be established by board rule. Section 468.411, created by this bill, requires
that the fees assessed be based upon the costs of regulation. The DPR cost projection for administration of the regulation indicates the necessity for fees in these amounts: application fee of $20; examination fee of $65; initial license fee of $75, and a renewal fee of $75.

IV. **AMENDMENTS**

The DPR Subcommittee adopted three amendments to HB 775. A description of the amendments is as follows:

**Amendment #1**

This amendment essentially rewrote HB 775. The two primary features contained in the amendment are (1) creation of an advisory council under the Board of Medical Examiners in lieu of a separate board, and (2) the provision for certification and registration rather than licensure.

Three of the five sections of HB 775 were affected by this amendment. Section changes are as follows:

**Section 1.** This section, which amends s. 20.30, F.S., to establish the new board within DPR, is deleted since a separate board is not to be created.

**Section 2.** There are changes throughout this section of the bill since the provisions of Part VI of Chapter 468, F.S., created by this bill, are contained in this section. Pursuant to the major thrust of Amendment 1, most of the changes involve terminology adjustment associated with certification and registration in lieu of licensure and provisions relating to the advisory council in lieu of a separate board. Specific sections of Part VI of Chapter 468, affected and nature of the changes are as follows:

- **468.401 - **Purpose - This section is changed to contain purpose and intent; terminology changes.

- **468.402 - **Short Title - Terminology change.
468.403 - Definitions - Terminology changes; definition of "direct supervision" is added.

468.404 - Board - Rewrite of section to create five member advisory council under the supervision of the Board of Medical Examiners; powers and duties of the Board are specified as well as provisions for its relationship with the advisory council.

468.405 - Eligibility for Licensure - Terminology changes; more detail in criteria for eligibility.

468.406 - Licensure by Examination - Terminology changes.


468.408 - Title and Abbreviations - Terminology changes.

468.409 - Renewal of License - Terminology changes.

468.410 - Inactive Status; Reactivation of License - Terminology changes.

468.411 - Disposition of Fees - Rewrite of this section to include specification of categories of fees; fee caps are included.

468.412 - Disciplinary Proceedings - Terminology changes; deletion of two subsections which relate to the concept of licensure.

468.413 - Penalties for Violations - Terminology changes; deletion of one subsection deemed inappropriate and amendment of one subsection for additional specification regarding the violation.

468.415 - Approval of Education Programs - Terminology changes.
468.416 - Continuing Education - Terminology changes; board is given more flexibility in determining courses to be approved.

468.417 - Exemptions - Terminology changes; deletion of several exemptions deemed inappropriate, addition of two exemptions deemed to be necessary.

Section 3. - Sundown repeal and review of the advisory body - Language change to reflect creation of council rather than new board.

Amendment #2

This amendment reworded an exemption deleted by Amendment #1 and added the exemption to those in s. 468.417. The exemption provides for the restricted delivery of respiratory care services by certain students employed by health care facilities.

Amendment #3

This amendment exempts hospitals from the responsibility to pay for or reimburse any person for the costs of any of the requirements of the Act.

In addition, a title amendment was adopted to reflect the changes in Amendments #1-3.

Pursuant to House Rule 6.52, the DPR Subcommittee recommends that CS/HB 775 be considered in lieu of the original bill.

V. COMMENTS

Respiratory care professionals are health care practitioners who, under medical direction, perform assessment, treatment, management, and diagnostic evaluation measures in the care of patients with deficiencies, abnormalities, and diseases of the cardiopulmonary system. Specific examples of the range of measures performed by respiratory care professionals are the taking of arterial blood samples, maintenance of life support systems in hospital intensive care units, and delivery of inhalation therapy to patients with emphysema.
The only credentialing system for respiratory care professionals currently is a voluntary one through the auspices of the National Board for Respiratory Care. Approximately 1825 of the 3700-4000 respiratory health care practitioners employed in Florida currently, have met the requirements involved in the national professional association's voluntary credentialing system. The remainder are graduates who have not participated in the credentialing program or are individuals who have received "on-the-job" training in respiratory care.

Voluntary credentialing is possible through the national association for the respiratory therapy technician, respiratory therapist, and pulmonary function technologist categories. It is reported that 47% of the respiratory care professionals are credentialed, compared with a reported national figure of 30%.

Prepared by: Edith Dunlap, Legislative Research Assistant

Staff Director: Chris Holland, Ph.D.

CH/njd
CS/HB 775

relating to Respiratory Care

Other Committees of Reference:

Subcommittee: _________

Committees: Finance & Taxation, Appropriations

I. SUMMARY AND PURPOSE

The purpose of CS/HB 775 is to provide a regulatory scheme for the delivery of respiratory care services in an institutional or home setting.

II. CURRENT LAW AND EFFECT OF CHANGES

A. Current Law

There is no statute currently which provides for the regulation of the respiratory care profession generally. Chapter 483, F.S., entitled "The Florida Clinical Laboratory Law", as amended by Chapter 83-276, Laws of Florida, includes a "blood gas analyst" in its definition of "clinical laboratory personnel." The Act provides for the regulation of such clinical lab personnel by the Department of Health and Rehabilitative Services. Respiratory care professionals functioning in other capacities and settings, are not addressed by this statute or any other currently.

B. Effect of Proposed Changes

CS/HB 775 enacts the "Respiratory Care Act" by creating Part VI of Chapter 468, F.S. CS/HB 775 requires demonstration of competency at the respiratory therapy
technician level as a prerequisite for the delivery of respiratory care services in the State of Florida.

A five member advisory council is established under the Board of Medical Examiners to assist in the administration of the Act.

Provision is made for the future repeal of the "Respiratory Care Act" on October 1, 1994, with a Sunset review to occur prior to that date. The Advisory Council on Respiratory Care is slated for Sundown repeal on October 1, 1994, with a review to occur prior to that date.

A section by section outline of CS/HB 775 follows:

Section 1. Creates Part VI of Chapter 468, Florida Statutes, consisting of sections 468.401-468.417, F.S., which include these provisions:

468.401 - Purpose and Intent - Describes the purpose and intent of the Legislature in enacting this part to provide for the certification and registration of persons who deliver respiratory care services in order to protect the public health and safety.

468.402 - Short Title - Provides that Part VI, Chapter 468, F.S., may be known as the "Respiratory Care Act."

468.403 - Definitions - Contains a set of definitions related to the delivery of respiratory care services under this part.

468.404 - Advisory Council on Respiratory Care - Creates the council to serve as an adjunct to the Board of Medical Examiners; includes council composition, organization and duties; powers and duties of the Board of Medical Examiners are specified.

468.405 - Eligibility for Certification or Registration - Establishes criteria for certification as a respiratory therapy technician and registration as a respiratory therapist; provides for temporary certification.
Certification by Examination - Provides for certification by examination at the respiratory therapy technician level; establishes the exam given by the National Board of Respiratory Care for entry level certification of respiratory therapy technicians as the exam to be given or its equivalent; establishes conditions under which applicants may take the exam; includes provisions which address those individuals who are employed in the delivery of respiratory care services on the effective date of the Act as well as those who are not.

Certification or Registration by Endorsement - Provides for certification or registration of those who hold the appropriate credential issued by the National Board for Respiratory Care; provides for certification or registration for those who have been granted such by another state or country.

Title and Abbreviations - Restricts certain titles and abbreviations for use by those certified or registered under this Act.

Renewal of Certification or Registration - Provides for the biennial renewal of certification or registration.

Inactive Status; Reactivation of Certification or Registration - Establishes the conditions under which a certification or registration is considered (1) inactive and (2) expired; provides that the board shall adopt rules for reversion to and reactivation of those persons whose state certification or registration is deemed inactive or expired.

Fees - Authorizes the board to establish fees for various purposes; sets caps for these fees; specifies that fees shall be based on actual costs incurred by the Department; provides that revenues are to
be deposited in a trust fund; relieves hospitals from the obligation to pay for or reimburse any person for the costs of any of the requirements of the Act.

468.412 - Disciplinary Proceedings - Describes 24 acts which shall constitute grounds upon which disciplinary action may be taken; specifies penalties; describes the responsibilities of the board related to this section; authorizes the board to establish guidelines for the disposition of disciplinary cases involving specific types of violations.

468.413 - Penalties for Violations - Establishes seven acts which shall be considered criminal violations; specifies that the penalty for any of these violations shall be a felony of the third degree.

468.414 - Injunctive Relief - Authorizes the Department to seek remedies in lieu of or in addition to those specified in the Act.

468.415 - Approval of Educational Programs - Establishes criteria for the approval of educational programs.

468.416 - Continuing Education - Establishes a requirement of continuing education of no fewer than 24 hours, as a condition for renewal of certification or registration; authorizes the board to approve courses which may be accepted for continuing education and to approve providers of such courses.

468.417 - Exemptions - Authorizes an exemption from the provisions of the Act in nine instances.

Section 2. Repeals s. 468.404, related to the Advisory Council on Respiratory Care, on October 1, 1994, and mandates a review prior to the repeal date by the Legislature pursuant to s. 11.611, F.S., the Sundown Act.
Section 3. Stipulates a repeal date of October 1, 1994, for Part VI of Chapter 468, F.S., as created by this bill, and requires a review by the Legislature prior to the repeal date pursuant to s. 11.61, F.S., the Regulatory Sunset Act.

Section 4. Provides an effective date for the Act of October 1, 1984.

III. FISCAL DATA

A. Public Sector Considerations

The cost of regulating the delivery of respiratory care services will be paid by those being regulated. The Department of Professional Regulation (DPR) projects the costs of regulating the approximately 4,000 respiratory care professionals, currently employed in the delivery of respiratory care services, to be $195,072 during the first year, and $265,767 during each of the second and third years.

It can be concluded that these certification and registration costs may be directly or indirectly passed on to the consuming public.

B. Private Sector Considerations

Each person desiring to be certified or registered under this act would be required to pay specified fees prior to delivering respiratory care services. The fees assessed would be established by board rule. Section 468.411, created by this bill, requires that the fees assessed be based upon the costs of regulation. The DPR cost projection for administration of the regulation indicates the necessity for fees in these amounts: application fee of $20; examination fee of $65; initial license fee of $75, and a renewal fee of $75.

IV. COMMENTS

Respiratory care professionals are health care practitioners who, under medical direction, perform assessment, treatment, management, and diagnostic evaluation measures in the care of patients with deficiencies, abnormalities, and diseases of the cardiopulmonary system. Specific examples of the range of measures performed by respiratory care professionals are the taking of arterial
blood samples, maintenance of life support systems in hospital intensive care units, and delivery of inhalation therapy to patients with emphysema.

The only credentialing system for respiratory care professionals currently is a voluntary one through the auspices of the National Board for Respiratory Care. Approximately 1825 of the 3700-4000 respiratory health care practitioners employed in Florida currently, have met the requirements involved in the national professional association's voluntary credentialing system. The remainder are graduates who have not participated in the credentialing program or are individuals who have received "on-the-job" training in respiratory care.

Voluntary credentialing is possible through the national association for the respiratory therapy technician, respiratory therapist, and pulmonary function technologist categories. It is reported that 47% of the respiratory care professionals are credentialed, compared with a reported national figure of 30%.

Prepared by: Edith Dunlap, Legislative Research Assistant
Staff Director: Chris Holland, Ph.D.

CH/njd
BILL SUMMARY

COMMITTEE ON REGULATORY REFORM

CS/HB 775
relating to Respiratory Care

Other Committees of Reference:

Subcommittee: ____________________
Committees: Finance & Taxation, Appropriations

I. SUMMARY AND PURPOSE

The purpose of CS/HB 775 is to provide a regulatory scheme for the delivery of respiratory care services in an institutional or home setting.

II. CURRENT LAW AND EFFECT OF CHANGES

A. Current Law

There is no statute currently which provides for the regulation of the respiratory care profession generally. Chapter 483, F.S., entitled "The Florida Clinical Laboratory Law", as amended by Chapter 83-276, Laws of Florida, includes a "blood gas analyst" in its definition of "clinical laboratory personnel." The Act provides for the regulation of such clinical lab personnel by the Department of Health and Rehabilitative Services. Respiratory care professionals functioning in other capacities and settings, are not addressed by this statute or any other currently.

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CS/HB 775 enacts the "Respiratory Care Act" by creating Part VI of Chapter 468, F.S. CS/HB 775 requires demonstration of competency at the respiratory therapy
technician level as a prerequisite for the delivery of respiratory care services in the State of Florida.

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468.406 - Certification by Examination - Provides for certification by examination at the respiratory therapy technician level; establishes the exam given by the National Board of Respiratory Care for entry level certification of respiratory therapy technicians as the exam to be given or its equivalent; establishes conditions under which applicants may take the exam; includes provisions which address those individuals who are employed in the delivery of respiratory care services on the effective date of the Act as well as those who are not.

468.407 - Certification or Registration by Endorsement - Provides for certification or registration of those who hold the appropriate credential issued by the National Board for Respiratory Care; provides for certification or registration for those who have been granted such by another state or country.

468.408 - Title and Abbreviations - Restricts certain titles and abbreviations for use by those certified or registered under this Act.

468.409 - Renewal of Certification or Registration - Provides for the biennial renewal of certification or registration.

468.410 - Inactive Status; Reactivation of Certification or Registration - Establishes the conditions under which a certification or registration is considered (1) inactive and (2) expired; provides that the board shall adopt rules for reversion to and reactivation of those persons whose state certification or registration is deemed inactive or expired.

468.411 - Fees - Authorizes the board to establish fees for various purposes; sets caps for these fees; specifies that fees shall be based on actual costs incurred by the Department; provides that revenues are to
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468.415 - **Approval of Educational Programs** - Establishes criteria for the approval of educational programs.

468.416 - **Continuing Education** - Establishes a requirement of continuing education of no fewer than 24 hours, as a condition for renewal of certification or registration; authorizes the board to approve courses which may be accepted for continuing education and to approve providers of such courses.

468.417 - **Exemptions** - Authorizes an exemption from the provisions of the Act in eight instances.

**Section 2.** Repeals s. 468.404, related to the Advisory Council on Respiratory Care, on October 1, 1994, and mandates a review prior to the repeal date by the Legislature pursuant to s. 11.611, F.S., the Sundown Act.
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IV. COMMENTS

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Prepared by: Edith Dunlap, Legislative Research Assistant

Staff Director: Chris Holland, Ph.D.

CH/njd
RESPIRATORY CARE

HB 775

This bill creates a regulatory scheme for professionals who deliver respiratory care services in an institutional or home setting.

The DPR adopted serveral amendments to HB 775 and voted to report the bill as a proposed Committee Substitute. The bill summary in your packets contains a description of the bill as filed and explains the amendments adopted.

There were some unresolved issues which are addressed in amendments to be offered today. The amendments are as follows:

1. Clarifies any question regarding regulatory authority overlap between clinical lab personnel and clinical laboratories and respiratory care-professionals to be regulated by this Act.

2. Is related to issue of Amendment #1 - specifies the type of clinical laboratory specimens and analysis respiratory professionals certified or registered under this Act may collect and perform.

3. Is technical - secretary not needed. The Board provides secretarial assistance at advisory council meetings.
4, 5, 6. These amendments are needed to provide for the certification or registration of persons who may not be employed on effective date of the Act and who, due to current language in the bill, would be prevented from obtaining certification or registration at some future date.

7. Clarifies an amendment adopted in Subcommittee which exempts hospitals from paying for or reimbursing any person for any costs required by the provisions of this Act.
SUBCOMMITTEE REPORT/INFORMATION RECORD

File with Parent Committee

To Chairman, Committee on

Regulatory Reform

Subcommittee on

Date of meeting 4-12-84
Time 3:30 P.M.
Place 21 HOB

FINAL ACTION: __ FAVORABLE
__ FAVORABLE WITH _______ AMENDMENTS
__ FAVORABLE WITH SUBSTITUTE
__ UNFAVORABLE

VOTE:

YEA  NAV

X JONES, DENNIS
X METCALF
X NERGARD
X PAJCIC
X REAVES
X YOUNG

Total Yeas 5
Total Nays 0

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SUBCOMMITTEE APPEARANCE RECORD

The following persons (other than legislators) appeared before the Subcommittee during consideration of this bill:

<table>
<thead>
<tr>
<th>Name</th>
<th>Representing</th>
<th>Address</th>
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<tbody>
<tr>
<td>Patty B. Koff, Fla. So. for Resp. Therapy, Memorial Hosp. of Jacksonville</td>
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<tr>
<td>Jim McCloy, FMA, 100 E. College, Talla, Fl.</td>
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<tr>
<td>Sharon Douglass, Fla. So. for Resp. Therapy, 1920 Hounds Lake Ave Hunter Park</td>
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<tr>
<td>Harry G. Landrum, Fl. So. for Resp. Therapy, 1225 E. Park Ave, Talla, Fl.</td>
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NOTE: Please indicate by an "x" any State employee appearing at the request of Subcommittee Chairman.

Received by Parent Committee: Date: Received by: 

H-74(1980)
Final Action: ___ Favorable  ___ Favorable with Amendment(s)  ___ Favorable with Substitute  ___ Unfavorable

Total Yeas: 18  Total Nays: 0

Committee Appearance Record

The following persons (other than legislators) appeared before the committee during the consideration of this bill:

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Chairman

NOTE: Please indicate by an "X" any State employee appearing at the request of Committee Chairman.

(If additional persons, enter on reverse side and check here.)

File 2 copies with Clerk
**Committee on Finance & Taxation**

Meet Time
Place

Referred to Subcommittee on

Subcommittee report:
- favorable
- favorable with amendments
- unfavorable

Subcommittee report: favorable with amendments

Committee Action: Temporarily passed
- Reconsidered
- favorable
- favorable with amendments
- unfavorable

Final vote on bill:

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<td>GUSTAFSON</td>
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<td>MORGAN</td>
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<td>THOMPSON</td>
<td>TOBIASSEN</td>
<td>WATT</td>
<td>WETHERELL</td>
<td>READY, V. -Ch.</td>
<td>KUTUN, Chairman</td>
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</table>

**Bill No.**

Date received

Committee Action: Date Reported

Final vote totals:
In compliance with Rule 7.16, there is hereby submitted a fiscal note on the above listed bill relative to the effect on revenues, expenditures, or fiscal liability of the State.

I. DESCRIPTION OF BILL:
A. Fund or Tax Affected
   Professional Regulation Trust Fund License Fees

B. Principal Agency Affected
   Department of Professional Regulation
   Board of Medical Examiners
   Advisory Council on Respiratory Care

C. Sponsor's Statement of Purpose
   To regulate providers of respiratory care services.

D. Narrative Summary
   1. Creates Part VI of Chapter 468, F.S., consisting of sections 468.401 through 468.417. Please refer to the attached staff summary prepared by the Regulatory Reform committee for an in-depth analysis of this bill.
   2. Section 468.411, F.S. Imposes the following fees on persons seeking licensure as respiratory care providers:
      a. application fee ......................... no more than $50
      b. examination fee ......................... no more than $100
      c. initial registration fee; biennial registration renewal fee ................ no more than $200
      d. late renewal fee; registration reactivation fee ................ no more than $50
      e. renewal of inactive registration fee ... no more than $50
   Allows the department to establish the actual fees, based on the expected regulatory costs which will be incurred.

II. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:
A. Non-Recurring or First Year Start-up Effects
   P.Y. 1984-85 revenue effect: Indeterminate gain
   (unknown due to unspecified fee amounts; reduced by October 1 effective date of bill)

B. Recurring or Annualized Continuation Effects
   P.Y. 1985-86 revenue effect: Indeterminate gain
   (unknown due to unspecified fee amounts)

C. Long Run Effects other than Normal Growth
   None

D. Appropriations Consequences/Source of Funds
   P.Y. 1984-85 administrative cost: $195,000
   (reduced effect due to October 1 effective date)
   P.Y. 1985-86 administrative cost: $266,000

III. COMMENTS:
   This legislation is scheduled to take effect October 1, 1984.

84h0775in3
AMENDMENT -- FOR DRAFTING ONLY
(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative of the Committee on

offered the following amendment. #1

On page 13, lines 8-30 and strike all of said lines

and insert: (1)(a) Any certificate or registration which reverts to the inactive status pursuant to the provisions set forth in s. 468.409, may be reactivated upon application to the department and payment of appropriate fees.

(b) The board shall prescribe by rule continuing education requirements as a condition of reactivating a certificate or registration. The continuing education requirements for reactivating a certificate or registration shall not exceed 12 classroom hours for each year the certificate or registration was inactive.

(c) Any certificate or registration which has been inactive for more than 4 years shall automatically expire if the certificate holder or registrant has not made application for renewal of the inactive status of such certificate or registration. Once a certificate or registration expires, it becomes null and void without any further action by the board or department. One year prior to expiration of the certificate or registration, the department shall give notice to the certificate holder or registrant.

CS/HB 775
SB

adopted failed of adoption

offered the following amendment:

On page _______, line_______, strike

and insert: (2) The board shall promulgate rules relating to reversion to inactive status and to expiration of certification or registration, providing for renewal of an inactive certification or registration, reactivation of inactive certification or registration, and for the recertification and reregistration of persons whose state certification or registration has expired, and establish fees thereof.
Representative on The Committee on offered the following amendment:

On page 14, line 12, strike all of said line

and insert: (e) Renewal of inactive certification or registration, not to exceed $50.

adopted

failed of adoption

CS/HB 775

H-b2 (1980)
I. SUMMARY:

A. Present Situation:

The profession of respiratory therapy is presently not subject to Florida regulatory law. Chapter 483, Florida Statutes, entitled "The Florida Clinical Laboratory Law," includes a "blood gas analyst" in its definition of clinical laboratory personnel who are regulated by the Department of Health and Rehabilitative Services under the act, but respiratory care professionals functioning in other capacities and settings are not subject to regulation in accordance with that act.

B. Effect of Proposed Changes:

The bill creates part VI of chapter 468, Florida Statutes, entitled the "Respiratory Care Practice Act." The bill describes the purpose and intent of the legislation (s. 468.401); provides relevant definitions (s. 468.403); establishes a five-member Advisory Council on Respiratory Care under the supervision of the Board of Medical Examiners within the Department of Professional Regulation (DPR); establishes qualifications for council members; fixes compensation for council members; requires that the council meet at least twice each year; authorizes the board to establish minimum standards of practice, adopt rules, and delegate powers and duties to the council; and authorizes the council to make recommendations to the DPR concerning a code of ethics and continuing education courses (s. 468.404).

The bill establishes eligibility requirements for certification as a respiratory therapy technician and registration as a respiratory therapist (s. 468.405). An applicant for certification as a respiratory therapy technician must have successfully completed an approved training program; be certified as a respiratory therapy technician by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board; or be employed in Florida as a respiratory therapy technician on the date the bill becomes law. An applicant for registration as a respiratory therapist must have successfully completed an approved training program; or be a registered respiratory therapist registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board. The board is directed to review the examinations and standards of the National Board for Respiratory Care not less than 4 years from the date of the bill's enactment and is authorized to reject those examinations and standards if they are deemed inappropriate. The board is also directed to establish provisions for the temporary practice of respiratory
therapy by eligible persons entering the state and graduates of approved training programs.

Certification as a Respiratory Therapy Technician is required under the bill in order to engage in the delivery of respiratory care services in Florida. The DPR is directed to conduct certification exams at least twice a year in locations deemed advantageous to the majority of applicants and the exam shall be the same as that given by the National Board for Respiratory Care for entry level certification or an equivalent exam accepted by the board. Time limits within which applicants must pass the exam are established. The DPR is to issue a certificate to practice respiratory care as respiratory therapy technician to applicants who successfully complete the exam.

Certification or registration by endorsement is provided for and the board is prohibited from rescinding the endorsement provisions for 4 years from the date of enactment of the bill (s. 468.407). The bill also provides for the use of titles and abbreviations by practitioners (s. 468.408); provides for renewal of certification and registration upon satisfaction of continuing education requirements (s. 468.409); provides for reactivation of inactive certificates or registrations (s. 468.410); authorizes the board to establish certain fees (s. 468.411); provides a list of acts which constitute grounds for which the board may take disciplinary action and a list of penalties that may be imposed (s. 468.412); establishes acts which shall be considered criminal violations and shall be punishable as third degree felonies (s. 468.413); authorizes the DPR to seek injunctive relief in certain instances (s. 468.414); provides for approval of educational programs (s. 468.415); requires 24 hours of continuing education biennially in courses approved by the board (s. 468.416); exempts certain individuals from the provisions of the bill (s. 468.417); and provides for repeal and review of the bill and the advisory council in 1994 pursuant to the provisions of the Regulatory Sunset Act (s. 11.61, F.S.) and the Sundown Act (s. 11.611, F.S.).

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The bill provides for the establishment of the following fees: application fee, not to exceed $50; examination fee, not to exceed $100; initial certification or registration fees, not to exceed $200; certification or registration renewal fees, not to exceed $200 biennially; late renewal fee, not to exceed $50; and reactivation fee, not to exceed $50. Respiratory therapy technicians wishing to become certified and respiratory therapists wishing to become registered would incur the expense of these fees.

It is assumed that respiratory therapy technicians and respiratory therapists, like other professionals, will pass the cost of regulation on to the consumers of their services. Thus, the cost of regulation will ultimately be borne by the consumers of respiratory care services.

B. Government:

The bill creates, within the DPR, a five-member Advisory Council on Respiratory Care whose members are to receive compensation for their services and reimbursement for their expenses. The council is also directed to hold at least two meetings each year. The DPR may have to develop or acquire and will have to administer an examination to qualified applicants.
The DPR and board will also incur the expense of enforcing the bill's disciplinary provisions.

The DPR projects a start-up expense of $2,500 to implement the provisions of the bill. This figure represents the cost of salaries and benefits, expenses, OPS temporary employment, operating capital outlay, and data processing services.

The DPR estimates it will incur the following expenses in the first 3 years of regulating respiratory therapy technicians and respiratory therapists:

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According to DPR estimates based on anticipated fee levels and numbers of applicants, a reserve of $91,249 will exist after 3 years of regulation.

**III. COMMENTS:**

A similar bill, HB 775, has been introduced in the House this session.

**IV. AMENDMENTS:**

None.
Changes the short title to the "Respiratory Care Act."

Replaces the phrase "practice of respiratory care" with "delivery of respiratory care services" throughout the bill.

Amends the definitions of respiratory therapy technician and respiratory therapist.

Defines "direct supervision" as supervision and control by a licensed physician who assumes legal liability for the services rendered by the personnel employed in his office.

Deletes the provision requiring election of a secretary of the advisory council.

Amends the eligibility requirements for certification and registration to require that applicants for either be 18 years old and have a high school or graduate equivalency diploma.

Requires the board to annually review the examinations and standards of the National Board of Respiratory Care.

Limits temporary certification to a period of one year.

Requires that applicants pay an application fee set by the board when applying for examination.

Amends section 468.406, Florida Statutes, to provide that graduates of board approved programs who graduated on or subsequent to the effective date shall leave 1 year from the date of graduation in which to pass the examination if delivering respiratory care services under temporary certification.

Deletes the provision relating to certification or registration by endorsement which prohibits the board from rescinding the endorsement provisions for 4 years after enactment.

Provides that a hospital shall not be required to pay for or reimburse any person for the costs of compliance with any of the bill's requirements including costs of continuing education.

Authorizes the board and advisory council to adopt rules establishing acceptable standards related to the delivery of respiratory therapy care services.

Deletes two provisions relating to advertising from the grounds for disciplinary action section (s. 468.412).

Amends the exemptions section to include and exclude certain individuals.
I. SUMMARY:

A. Present Situation:

The profession of respiratory therapy is presently not subject to Florida regulatory law. Chapter 483, Florida Statutes, entitled "The Florida Clinical Laboratory Law," includes a "blood gas analyst" in its definition of clinical laboratory personnel who are regulated by the Department of Health and Rehabilitative Services under the act, but respiratory care professionals functioning in other capacities and settings are not subject to regulation in accordance with that act.

B. Effect of Proposed Changes:

The bill creates part VI of chapter 468, Florida Statutes, entitled the "Respiratory Care Act." The bill describes the purpose and intent of the legislation (s. 468.401); provides relevant definitions (s. 468.403); establishes a five-member Advisory Council on Respiratory Care under the supervision of the Board of Medical Examiners within the Department of Professional Regulation (DPR); establishes qualifications for council members; fixes compensation for council members; requires that the council meet at least twice each year; authorizes the board to establish minimum standards for the delivery of respiratory care services, adopt rules, and delegate powers and duties to the council; and authorizes the council to make recommendations to the DPR concerning a code of ethics and continuing education courses (s. 468.404).

The bill establishes eligibility requirements for certification as a respiratory therapy technician and registration as a respiratory therapist (s. 468.405). An applicant for certification as a respiratory therapy technician must be at least 18 years old, possess a high school or graduate equivalency diploma, have successfully completed an approved training program; be certified as a respiratory therapy technician by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board; or be employed in Florida as a respiratory therapy technician on the date the bill becomes law. An applicant for registration as a respiratory therapist must be at least 18 years old, possess a high school or graduate equivalency diploma, have successfully completed an approved training program; or be a registered respiratory therapist registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board. The board is directed to review the examinations and standards of the National Board for Respiratory Care annually and is authorized to reject those examinations and standards if they
are deemed inappropriate. The board is also directed to establish provisions for the temporary certification of eligible persons entering the state and graduates of approved training programs. Temporary certification is limited to a period of 1 year.

Certification as a Respiratory Therapy Technician is required under the bill in order to engage in the delivery of respiratory care services in Florida. The DPR is directed to conduct certification exams at least twice a year in locations deemed advantageous to the majority of applicants and the exam shall be the same as that given by the National Board for Respiratory Care for entry level certification or an equivalent exam accepted by the board. Time limits within which applicants must pass the exam are established. The DPR is to issue a certificate to practice respiratory care as respiratory therapy technician to applicants who successfully complete the exam.

The bill provides for certification or registration by endorsement (s. 468.407), the use of titles and abbreviations by practitioners (s. 468.408), renewal of certification and registration upon satisfaction of certain continuing education requirements (s. 468.409), reactivation of inactive certificates or registrations (s. 468.410), and the board to establish certain fees (s. 468.411). It also provides that a hospital shall not be required to pay for or reimburse any person for the costs of compliance with any of the bill's requirements including costs of continuing education, provides a list of acts which constitute grounds for which the board may take disciplinary action and a list of penalties that may be imposed, establishes acts which shall be considered criminal violations and shall be punishable as third degree felonies (s. 468.413), authorizes the DPR to seek injunctive relief in certain instances (s. 468.414), provides for approval of educational programs (s. 468.415), requires 24 hours of continuing education biennially in courses approved by the board (s. 468.416), exempts certain individuals from the provisions of the bill (s. 468.417), and provides for repeal and review of the bill and the advisory council in 1994 pursuant to the provisions of the Regulatory Sunset Act (s. 11.61, F.S.) and the Sundown Act (s. 11.611, F.S.).

II. ECONOMIC IMPACT AND FISCAL NOTE:

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The bill provides for the establishment of the following fees: application fee, not to exceed $50; examination fee, not to exceed $100; initial certification or registration fees, not to exceed $200; certification or registration renewal fees, not to exceed $50; and reactivation fee, not to exceed $50. Respiratory therapy technicians wishing to become certified and respiratory therapists wishing to become registered would incur the expense of these fees.

It is assumed that respiratory therapy technicians and respiratory therapists, like other professionals, will pass the cost of regulation on to the consumers of their services. Thus, the cost of regulation will ultimately be borne by the consumers of respiratory care services.

B. Government:

The bill creates, within the DPR, a five-member Advisory Council on Respiratory Care whose members are to receive compensation for their services and reimbursement for their
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According to DPR estimates based on anticipated fee levels and numbers of applicants, a reserve of $91,249 will exist after 3 years of regulation.

III. COMMENTS:

A similar bill, CS/HB 775, was approved by the Governor on June 19, 1984, and appears as chapter 84-252, Laws of Florida.

IV. AMENDMENTS:

None.
BILL ACTION REPORT

C3-75: File with Secretary of Senate) (S) BILL NO. SB 881

COMMITTEE ON Economic, Community, & Consumer Affairs

DATE May 21, 1984

TIME 10:00 a.m. - 12:00 Noon

PLACE Room H, Senate Office Bldg.

DATE REPORTED May 22, 1984

FINAL ACTION:
- Favorably with ___ amendments
- Favorably with Committee Substitute
- Unfavorably

OTHER:
- Temporarily Passed
- Reconsidered
- Not Considered

THE VOTE WAS:

Moved by Senator Myers to Consider Proposed Committee Substitute

| FINAL BILL VOTE | SENATORS       | Amendment 1 to POS Myers | Amendment 2 to POS Myers | Aye Nay | Aye Nay | Aye Nay | Aye Nay | Aye Nay | Aye Nay | Aye Nay | Aye Nay |
|-----------------|----------------|--------------------------|--------------------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Aye            | Myers          |                          |                          |         |         |         |         |         |         |         |         |         |
| Nay            | Myers          |                          |                          |         |         |         |         |         |         |         |         |         |
| X              | Senator Childers, D.C. |                  |                          |         |         |         |         |         |         |         |         |         |
|                | Senator Grizzle |                          |                          |         |         |         |         |         |         |         |         |         |
|                | Senator Meek |                          |                          |         |         |         |         |         |         |         |         |         |
|                | Senator Myers |                          |                          |         |         |         |         |         |         |         |         |         |
|                | Senator Stuart |                          |                          |         |         |         |         |         |         |         |         |         |
|                | Senator Grant  |                          |                          |         |         |         |         |         |         |         |         |         |
|                | Senator Carlucci |                        |                          |         |         |         |         |         |         |         |         |         |

(Chairman)

4 0 TOTAL

Aye Nay Aye Nay Aye Nay Aye Nay Aye Nay Aye Nay

(Attach additional page if necessary)

ease Complete:
- The key sponsor appeared ( )
- A Senator appeared ( )
- Sponsor's aide appeared ( )
- Other appearance ( )
COMMITTEE APPEARANCE RECORD

(Submit to Committee Chairman or Secretary)

Date: 5/31/84

Bill No.: SBK 88

Name: Sue Harvey

Lobbyist (Registered with Senate) Yes  No

Speaking: For  Against  Information

Subject:

If state employee— Time: from____m. to____m.

(State employees are required to file the first copy of this form with Committee Chairman unless appearance is requested by chairman as a witness or for informational purposes.)
COMMITTEE APPEARANCE RECORD
(Submit to Committee Chairman or Secretary)

Date 5/31/84

Bill No. SB45 881

Name David C. Shelly

Res 1415 Temple Hills, FL 33617

Representing Florida Society for Respiratory Therapy

Lobbyist (Registered with Senate) Yes ______ No ______

Speaking: For ______ Against ______ Information ______

Subject Respiratory Care Act.

If state employee-- Time: from ________ m. to ________ m.

(State employees are required to file the first copy of this form with Committee Chairman unless appearance is requested by chairman as a witness or for informational purposes.)
COMMITTEE APPEARANCE RECORD
(Submit to Committee Chairman or Secretary)

Date: May 31, 1984

Name: HERMAN E. GORE

Address: ALLIED HEALTH SOS. EMAU

Representing: ESRF OY EMAU (ALLIED HEALTH SOS.)

Lobbyist (Registered with Senate): Yes [ ] No [X]

Speaking: For [X] Against [ ] Information [ ]

Subject: RESPIRATORY CARE ACT

If state employee—Time: from _______ .m. to _______ .m.

(State employees are required to file the first copy of this form with Committee Chairman unless appearance is requested by chairman as a witness or for informational purposes.)
The Committee on ECCA recommended the following amendment which was moved by Senator and adopted:

Amendment

On page .13, lines.8-30 and,
On page .14, lines.1-2, strike all of said lines

If amendment is text from another bill insert:

Bill No. Draft No. With Changes? Yes

and insert:

(l)(a) Any certificate or registration which reverts to the inactive status pursuant to the provisions set forth in s. 468.409, may be reactivated upon application to the department and payment of appropriate fees.

(b) The board shall prescribe by rule continuing education requirements as a condition of reactivating a certificate or registration. The continuing education requirements for reactivating a certificate or registration shall not exceed 12 classroom hours for each year the certificate or registration was inactive.

(c) Any certificate or registration which has been inactive for more than 4 years shall automatically expire if the certificate holder or registrant has not made application for renewal of the inactive status of such certificate or registration. Once a certificate or registration expires, it becomes null and void without any further action by the board or department. One year prior to expiration of the certificate or registration, the department shall give notice to the certificate holder or registrant.
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The Committee on ECCA recommended the following amendment which was moved by Senator and adopted: and failed:

Amendment

On page 14, line 12, strike all of said line

If amendment is text from another bill insert:

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(e) Renewal of inactive certification or registration, not to exceed $50.
A bill to be entitled

An act relating to respiratory care; amending s. 20.30, F.S., adding the Board of Respiratory Care to the regulatory boards within the Division of Professions of the Department of Professional Regulation; creating part VI of chapter 468, F.S.; providing purpose; entitling the part as the "Respiratory Care Practice Act"; providing definitions; creating the Board of Respiratory Care and providing for rules, membership, terms, organization, meetings, and quorum thereof; providing qualifications for eligibility for licensure as a respiratory therapy technician or a respiratory therapist; providing for temporary practice; providing for licensure by examination; providing for licensure by endorsement; restricting use of certain titles and abbreviations associated with the practice of respiratory care; providing for renewal of license; providing for reversion of license to inactive status; providing for reactivation of license; providing for automatic expiration of license; providing for the promulgation of rules; providing for fees and for the disposition thereof; providing grounds for disciplinary action and providing administrative penalties therefor; providing criminal penalties for certain activities; providing for injunctive relief; providing for approval of educational programs; providing continuing education...
requirements; providing definitions; providing for review and repeal; providing for
*1.18*

Sent to the Legislature of the State of Florida:

*1.19*

**Section 1.** Paragraph (f) of subsection (4) of section 106, Florida Statutes, is redesignated as paragraph (g) and a new paragraph (f) is added to said subsection, to read:

"In the Department of Professional Regulation—There is established a Department of Professional Regulation:

4. The following boards are established within the Department of Professional Regulation, Division of Professional Regulation:

5. Board of Respiratory Care, created under Part VI.

*1.20*

**Section 2.** Part II of chapter 106, Florida Statutes consisting of sections 106.1 through 106.17, Florida Statutes, is created to read:

PART VI

**RESPIRATORY CARE**

106.1 Purpose.—The sole purpose in enacting this part is to ensure that every respiratory care practitioner in this state meets necessary requirements for safe practice. It is the finding of the legislature that the practice of respiratory care by unskilled and incompetent practitioners renders a danger to the public health and safety. Therefore, it is not in the interest of the public to make an informed choice about respiratory care practitioners, and the consequences of a wrong choice could seriously endanger public health and safety, respiratory care practitioners who fall

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below minimum competencies or who otherwise present a danger
to the public shall be prohibited from practicing in this
state. Nothing in this part, however, shall be construed to
permit the practice of medicine by a respiratory care
practitioner.

468.402 Short title.--This part shall be known and may
be cited as the "Respiratory Care Practice Act."

468.403 Definitions.--As used in this part, unless the
context otherwise requires:

(1) "Board" means the Board of Respiratory Care.

(2) "Department" means the Department of Professional
Regulation.

(3) "Practice of respiratory care" includes, but is
not limited to, the following activities performed only upon
the order of a physician: Therapeutic and diagnostic use of
medical gases and administration apparatus, environmental
control systems, humidification, and aerosols; administration
of drugs and medications to the cardiopulmonary system;
ventilatory support, including the maintenance and management
of life support systems; bronchopulmonary drainage and
breathing exercises; respiratory rehabilitation; assistance
with cardiopulmonary resuscitation; and maintenance of natural
airways, including the insertion of, and maintenance of,
artificial airways. The term also includes specific testing
techniques to assist in diagnosis, monitoring, treatment, and
research. Such techniques shall be understood to include
measurement of ventilatory volumes, pressures, and flows,
specimen collection and analysis of blood and other materials,
pulmonary function testing, and other related physiologic
monitorings of cardiopulmonary systems.
(4) "Respiratory care" means the allied health specialty employed under medical direction in the treatment, management, control, diagnostic evaluation, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system.

(5) "Respiratory therapy technician" means any person employed in the practice of respiratory care who, under the supervision of a respiratory therapist or physician:

(a) Administers respiratory care to patients of all ages with varied diseases and to patients in need of acute, critical, and chronic care.

(b) Serves as a resource of knowledge to the physician and health care staff with respect to the technical aspects of administering respiratory care.

(c) Has demonstrated minimum entry level competency through completion of certification by the National Board for Respiratory Care, or the equivalent thereof, as determined by the board.

(6) "Respiratory therapist" means any person employed in the practice of respiratory care who, under the supervision of a physician, administers respiratory care in accordance with education and preparation as required under s. 468.405(2), and who, in addition to functioning as provided in subsection (5):

(a) Functions in situations of unsupervised patient contact requiring individual judgment.

(b) Has demonstrated advanced competency through completion of registration by the National Board for Respiratory Care, or the equivalent thereof, as determined by the board.
Board of Respiratory Care; rules; membership; terms; organization; meetings; quorum.—The Board of Respiratory Care is created within the Department of Professional Regulation to administer the provisions of this part.

(1) The board is authorized to adopt such rules as are necessary to carry out its duties consistent with the intent of this part and as may be necessary to protect the public health, safety, and welfare.

(2) The board, which shall consist of nine members appointed by the Governor and confirmed by the Senate, shall be constituted as follows:

(a) Five members of the board shall be respiratory therapists or respiratory therapy technicians, in good standing, who have been actively engaged in the practice of respiratory care in this state for at least 4 consecutive years prior to appointment, three of whom shall be respiratory therapists and two of whom shall be respiratory technicians. Two of said members shall be engaged in clinical practice, while each of the remaining three members shall represent one of the following areas:

1. Respiratory care education.
2. Respiratory care management and supervision.
3. Cardiopulmonary diagnostics.

(b) Two members of the board shall be licensed physicians in this state who have been actively involved in respiratory care for at least 4 consecutive years prior to appointment.

(c) Two members of the board shall be residents of this state who are not, nor ever have been, licensees of any health-care profession or employees of any health-care
The terms of office of a board member shall be 4 years, provided that each member shall serve until a successor is appointed. However, to achieve staggering of terms, within 10 days after the effective date of this act, the Governor shall appoint nine eligible and qualified members of the board as follows:

(a) Three members for terms of 1 year each.
(b) Three members for terms of 3 years each.
(c) Three members for terms of 4 years each.

No person shall be appointed to serve more than two consecutive terms. Any vacancy shall be filled by appointment by the Governor for the unexpired portion of the term in the same manner as the original appointment. Board members may be removed for cause.

(a) The board shall annually elect from among its members a chairman, vice chairman, and secretary.
(b) The board shall hold such meetings during the year as it may deem necessary, one of which shall be the annual meeting. Five members of the board shall constitute a quorum.

The board shall maintain its official headquarters in the state capital.

The eligibility for licensure is as follows:

(1) Any person desiring to be licensed as a respiratory therapy technician shall submit to the board evidence verified by oath that the applicant meets at least one of the following criteria:

CODING: Words in struck through type are deletions from existing law. Words underlined are additions.
(a) The applicant has successfully completed a training program for respiratory therapy technicians or respiratory therapists approved by the Committee on Allied Health Education and Accreditation of the American Medical Association, or the equivalent thereof, as accepted by the board;

(b) The applicant is currently a certified respiratory therapy technician certified by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board;

(c) The applicant is currently a registered respiratory therapist registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board; or

(d) The applicant is currently employed as a respiratory therapy technician or respiratory therapist on the effective date of this act;

The criteria set forth in paragraphs (b) and (c) notwithstanding, the board shall, at some future date not less than 4 years from the effective date of this act, review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

(2) Any person desiring to be licensed as a respiratory therapist shall submit to the board evidence, verified by oath, that the applicant meets at least one of the following criteria:

(a) The applicant has successfully completed a training program for respiratory therapists approved by the Committee on Allied Health Education and Accreditation of the
American Medical Association, or the equivalent thereof, as accepted by the board; or

b) The applicant is currently a registered respiratory therapist registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

The criteria set forth in paragraphs (a) and (b) notwithstanding, the board shall, at some future date not less than 4 years from the effective date of this act, review the examinations and standards of the National Board for Respiratory Care and may reject these examinations and standards if they are deemed inappropriate.

The board shall establish provisions for the temporary practice of respiratory care by eligible individuals entering the State of Florida and by those graduates practitioners who have graduated from a program approved by the board.

108 § 6. Licensure by examination.--

(1) Any person desiring to be licensed as a respiratory therapist registered as required to submit application to the board to take the examination to be administered by the department.

41) The department shall examine each applicant who is certified by the board as having

1. Completed the application form;

2. Submitted required documentation;

3. Submitted proof that he is not less than 18 years of age; and

4. Remitted an examination fee set by the board.
(b) The department shall conduct examinations for licensure of respiratory therapy technicians no less than two times per year in such geographical locations as are deemed advantageous to the majority of the applicants.

(c) The examination given for respiratory therapy technicians shall be the same as that given by the National Board for Respiratory Care for entry level certification of respiratory therapy technicians. However, an equivalent examination may be accepted by the board in lieu thereof.

(2) Each applicant who passes the examination shall be entitled to licensure as a respiratory therapy technician and the department shall issue a license to practice respiratory care to any applicant who successfully completes the examination in accordance with this section. However, the department shall not issue a license to any applicant who is under investigation in another jurisdiction for an offense which would constitute a violation of this part. Upon completion of such an investigation, if the applicant is found guilty of such offense, the applicable provisions of s. 468.412 shall apply.

(3) Upon the effective date of this act, in order to be licensed as a respiratory therapy technician in this state:

(a) Except as provided in paragraph (b), graduates of board-approved programs for respiratory therapy technicians or respiratory therapists who graduated prior to said date shall have 1 year from said date in which to pass the entry-level examination as provided herein and graduates of such programs who graduated on or subsequent to said date shall have 1 year from the date of graduation in which to pass such examination.

(b) Persons employed in this state on said date as respiratory therapy technicians or respiratory therapists who
3. Licensing by endorsement.

(1) Licensure as a respiratory therapy technician shall be granted by endorsement to those individuals who hold the "Certified Respiratory Therapy Technician" credential issued by the National Board for Respiratory Care, or an equivalent credential acceptable to the board. Licensure by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is real.

(2) Licensure as a respiratory therapist shall be granted by endorsement to those individuals who hold the "Registered Respiratory Therapist" credential issued by the National Board for Respiratory Care, or an equivalent credential acceptable to the board. Licensure by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is real.

The provisions of subsections (1) and (2) may be rescinded by the board no fewer than 4 years from the effective date of this act if said credentials are determined by the board to be inadequate at that time.

(3) Individuals who are licensed to practice, in another state or country, may petition the board for consideration for licensure in this state, and, upon verification by oath and submission of evidence of licensure.

NOTE: Words in square brackets are deletions from existing law. Words underlined are additions.
acceptable to the board, may be granted licensure by endorsement.

(4) No license shall be granted by endorsement as provided in this section without submission of proper application and payment of requisite fees therefor.

468.408 Title and abbreviations.--

(1) Only persons who hold licenses to practice respiratory care in this state shall have the right to use the title "Respiratory Therapy Technician" and the abbreviation "RTT."

(2) Only persons who hold licenses to practice as respiratory therapists in this state shall have the right to use the title "Respiratory Therapist" and the abbreviation "RT."

(3) Only persons who are graduates of board-approved programs for respiratory therapy technicians may use the term "Graduate Respiratory Therapy Technician" and the abbreviation "GRTT."

(4) Only persons who are graduates of board-approved programs for respiratory therapists may use the term "Graduate Respiratory Therapist" and the abbreviation "GRT."

(5) No person in this state shall practice or advertise as, or assume the title of, respiratory therapy technician or respiratory therapist or use the abbreviation "RTT" or "RT" or take any other action that would lead the public to believe that such person is licensed to practice in this state as such, unless such person is so licensed.

468.409 Renewal of license.--

(1) The department shall provide by rule a method for the biennial renewal of licenses at fees set by the board.
(2) Any license which is not renewed at the end of the biennium prescribed by the department shall automatically revert to an inactive status. Such license may be reactivated only if the licensee meets the requirements for reactivation set forth in s. 468.410.

(3) Sixty days prior to the end of the biennium and automatic reversion of a license to inactive status, the department shall mail a notice of renewal and possible reversion to the last known address of the licensee.

(4) Every licensee shall file with the department the address of his primary place of practice within the state prior to engaging in that practice. Prior to changing such address, the licensee shall notify the department of the address of his new primary place of practice, whether or not within the state.

(5) The board shall by rule prescribe continuing education requirements, not to exceed 24 hours biennially, as a condition for renewal of license. The program criteria with respect thereto shall be approved by the board.

468.410 Inactive status; reactivation of license.--

(1) Any license inactive for a period of less than 1 year may be reactivated upon payment of a penalty fee, to be set by the board, in addition to the required renewal fee. Any license which is inactive for 1 year or more may be reactivated upon application to the department and payment of appropriate fees established thereby. However, if a licensee does not make application for reactivation of an inactive license for more than 4 years, then such license shall automatically expire and become null and void without any further action by the board or department. One year prior to...
such expiration, the department shall provide notice of impending expiration to the licensee.

(2) The board shall promulgate rules relating to licenses which have become inactive or have expired, providing for the reactivation of inactive licenses and for the relicensure of persons whose licenses have expired, and establishing appropriate fees therefor. However, the fee for the reactivation of an inactive license shall not exceed $50 and the fee for the renewal of an inactive license shall not exceed $50 for each year, or part thereof, such license remained inactive.

468.411 Disposition of fees.—All moneys received by the board under this part shall be deposited as required by s. 215.37. It is the intent of the Legislature that expenses incurred by the board shall not exceed revenues.

468.412 Disciplinary proceedings.—

(1) The following acts shall constitute grounds for which the disciplinary actions in subsection (2) may be taken:

(a) Procuring, attempting to procure, or renewing a license to practice respiratory care by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b) Having a license to practice respiratory care revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of respiratory care or to the ability to practice respiratory care.
(d) Willfully making or filing a false report or record, willfully failing to file a report or record required by state or federal law, or willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which require the signature of a licensed respiratory therapy technician or respiratory therapist.

(e) Circulating false, misleading, or deceptive advertising.

(f) Unprofessional conduct, which shall include, but not limited to, any departure from, or failure to conform to, the minimum standards of acceptable and prevailing respiratory care practice, in which proceeding actual injury need not be established.

(g) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances as set forth by law for any other than legitimate purposes.

(h) Willfully failing to report any violation of this part.

(i) Willfully or repeatedly violating a rule of the board or the department, or a lawful order of the board or department previously entered in a disciplinary hearing.

(j) Advertising, practicing, or attempting to practice under a name other than one's own.

(k) Violation of any rule adopted pursuant to this part or chapter 155.

(l) Practicing on a revoked, suspended, or inactive license.

(m) Permitting, advising, assisting, procuring, or advising any unlicensed person to practice respiratory care.

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contrary to this part or to any rule of the department or the board.

(n) Failing to perform any statutory or legal obligation placed upon a licensed respiratory therapy technician or respiratory therapist.

(o) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows, or has reason to know, he is not competent to perform.

(p) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his service.

(q) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or licensure to perform them.

(r) Gross or repeated malpractice or the failure to practice respiratory care with that level of care, skill, and treatment which is recognized by a reasonably prudent respiratory therapy technician or respiratory therapist with similar professional training as being acceptable under similar conditions and circumstances.

(s) Paying or receiving any commission, bonus, kickback, or rebate from, or engaging in any split-fee arrangement in any form whatsoever with, a person, organization, or agency, either directly or indirectly, for goods or services rendered to patients referred by or to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical

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68.9:0

1. Laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed so as to prevent the licensee or any receiving a fee for professional consultation services.

2. Exercising influence upon a respiratory care provider for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her respiratory therapy technician or respiratory therapist.

3. Making deceptive, untrue, or fraudulent representations; the practice of respiratory care or employing a trick or scheme in the practice of respiratory care when such a scheme or trick fails to conform to the generally prevailing standards or other licensees within the community.

4. Soliciting patients, either personally or through an agent, through the use of fraud, deception, or otherwise misleading statements or known the exercise of intimidation or undue influence.

5. Failing to keep written respiratory care records justifying the reason for the action taken by the licensee.

6. Exercising influence in the patient's such a manner as to exploit the patient for financial gain of the licensee or a third party to his or her own advantage, but not limited to the promulgation of services, goods, appliances, or drugs.

7. Performing professional services which have not been duly authorized by the patient or his legal representative, except as provided in ss. 43.64, 68.13, and 78.46.
(a) Being unable to practice respiratory care with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material as a result of any mental or physical condition. In enforcing this paragraph, the department shall, upon probable cause, have authority to compel a respiratory therapy technician or respiratory therapist to submit to a mental or physical examination by physicians designated by the department. The cost of examination shall be borne by the licensee being examined. Failure of a respiratory therapy technician or respiratory therapist to submit to such an examination when so directed shall constitute an admission of the allegations against him, unless the failure was due to circumstances beyond his control, consequent upon which a default and a final order may be entered without the taking of testimony or presentation of evidence. A respiratory therapy technician or respiratory therapist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of respiratory care with reasonable skill and safety to his patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against a respiratory therapy technician or respiratory therapist in any other proceeding.

(2) When the board finds any licensee guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure.
(b) Revocation or suspension of a license.
(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.
The board shall not reinstate the license of a respiratory therapist unless a license to be issued to a person it has deemed unqualified, until such time as it is satisfied that such person has complied with all the requirements set forth in the rules and regulations relating to the renewal or issuance of a license for the practice of respiratory therapy.

The board may by rule establish penalties for the imposition of disciplinary cases involving specific types of violations such as minimum and maximum fines, periods of suspension or revocation, or conditions of protection or issuance of a license.

It shall be a violation of this law for any person, directly or indirectly, or in any manner, to furnish or cause to be furnished, or to attempt to furnish, any equipment or appliance, or any respiratory care service, to any person, or by any person, who is not qualified by the standards set forth in this law.

Penalties for violation: 5.3

Practice respiratory care as defined by this part: 5.3

Under cover of any diploma, license, or by any other means: 5.3
or record illegally or fraudulently obtained or signed, or
issued unlawfully or under fraudulent representation.

(c) Practice respiratory care, as defined by this part
or by rule of the board, unless duly licensed to do so under
the provisions of this part.

(d) Use in connection with his or her name any
designation tending to imply that he or she is a licensed
respiratory therapy technician or respiratory therapist,
unless duly licensed to practice under provisions of this
part.

(e) Conduct an education program for the preparation
of respiratory therapy technicians or respiratory therapists,
unless such program has been approved by the board.

(f) Knowingly employ unlicensed persons in the
practice of respiratory care.

(g) Knowingly conceal information relative to
violations of this part.

(h) Violate any other provision of this part.

(2) Any violation of this section shall be a felony of
the third degree, punishable as provided in s. 775.082, s.
775.083, or s. 775.084

468.414 Injunctive relief.—The department may, in its
discretion, in lieu of or in addition to any remedy set forth
in this part, file a proceeding in the name of the state
seeking issuance of a restraining order, injunction, or writ
of mandamus against any person who is or has been violating
any of the provisions of this part or the lawful rules,
orders, or subpoenas of the department or board.

468.415 Approval of educational programs.—

(1) Approval of educational programs shall be in
accordance with the Joint Review Committee for Respiratory
In the event that an educational program has not yet received full American Medical Association approval, the board, at its discretion, may require appropriate documentation of the intent to achieve full accreditation within a specified time period. Temporary approval for graduates of such programs to sit for state licensing examinations may then be granted by the board.

4.4.4.4 Continuing education.

11. No license renewal shall be issued by the department until the licensee submits proof satisfactory to the board that during the 2 years prior to his application for renewal he has participated in no fewer than 24 hours of continuing professional respiratory care education, in courses approved by the board.

12. The board shall approve only those courses that satisfy those basic courses required for the practice of respiratory care. Providers of such courses shall also be approved by the board.

3. The board may make exceptions from the requirements of this section in emergency or hardship cases.

4. The board may adopt rules, within the requirements of this section, that are necessary for implementation of this section.

10. All exemptions - Nothing in this part shall be construed to prohibit:

1. The practice of respiratory care by medical personnel who have been formally trained in these modalities.
and who are duly licensed or credentialed pertaining to their respective professions.

(2) Cardiopulmonary testing by individuals who are credentialed by the National Board for Respiratory Care as Certified Pulmonary Function Technologists (CPFT).

(3) The practice of respiratory care by students, as an integral part of the program of study of those enrolled in respiratory care educational programs approved by the board.

(4) The practice of respiratory care by individuals who are enrolled in a respiratory care educational program approved by the board, who provide verification of meeting program standards of progress according to a periodic reporting process established by the board, and who have entered the clinical portion of the program. Exemption under this subsection shall be for a period not to exceed 3 consecutive years following the initiation of the clinical portion of the program. Individuals eligible for practice under this provision shall not practice beyond the level of respiratory therapy technician.

(5) The practice of respiratory care at the level of respiratory therapy technician, for 1 year following graduation, by graduates of educational programs for respiratory therapy technicians or respiratory therapists approved by the board.

(6) The practice of any legally qualified respiratory care practitioner of this state, or of any other state or territory, who is employed by the United States Government or any agency thereof, while in the discharge of his official duties.

(7) Any licensed respiratory therapy technician or respiratory therapist from performing advances in the art and

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The regulations are enforced by a friend or relative of the family, the state, or the professional respiratory therapy technician or respiratory therapist.

Section 4, Chapter 69, Florida Statutes, is
suspended on October 1, 1994, and the Board of Respiratory Care
shall be reviewed by the Legislature pursuant to s. 11.61, Florida
Statutes. "The Regulatory Sunset Act"

Section 5. This act shall take effect October 1, 1994.

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HOUSE SUMMARY

Amends part I of chapter 69, F.S., the "Respiratory
Care Practice Act," creating the Board of Respiratory
Care. authorizes the Division of Professions of the Department
of Health and Recovery, to act as the regulatory body, to
administer the Board of Respiratory Care, and to
enforce the regulations. Provides for renewal of
licene and for a renewal of license to inactive status.
Provides for revocation. Provides for automatic registration.
Provides for fees and for the enforcement of the law.
Specifies grounds for revocation and provides administrative penalties
therefor. Specifies allowable fees and provides a third
party penalty therefor. Provides for administrative relief. Provides continuing education requirements and
requirements for approval of educational programs. Exempts
 certain activities from regulation under the act.

(CODING has been struck through. New deletions from existing law are underlined. New additions are italicized.)
A bill to be entitled
An act relating to respiratory care; creating part VI of chapter 468, F.S.; providing purpose and intent; entitling the part as the "Respiratory Care Act"; providing definitions; creating the Advisory Council on Respiratory Care under the Board of Medical Examiners within the Department of Professional Regulation; providing for rules, membership, terms, organization, meetings, and quorum thereof; providing regulatory powers and duties of the board; providing qualifications for eligibility for certification as a respiratory therapy technician or registration as a respiratory therapist; providing for temporary certification; providing for certification by examination; providing for certification or registration by endorsement; restricting use of certain titles and abbreviations associated with the delivery of respiratory care services; providing for renewal of certificate or registration; providing for reversion to inactive status; providing for reactivation; providing for automatic expiration; providing for the promulgation of rules; providing for fees and for the disposition thereof; protecting hospitals from liability for costs of compliance; providing grounds for disciplinary action and providing administrative penalties therefor; providing criminal penalties for certain activities;

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providing for injunctive relief; providing for approval of educational programs; providing continuing education requirements; providing exemptions; providing for future review and repeal; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Part VI of chapter 468, Florida Statutes, consisting of sections 468.401 through 468.417, Florida Statutes, is created as follows:

PART VI

RESPIRATORY CARE

468.401 Purpose and intent.—The purpose in enacting this part is to provide for the certification and registration of persons who deliver respiratory care services and who meet certain requirements. It is the finding of the Legislature that the delivery of respiratory care services by unskilled and incompetent persons presents a danger to the public health and safety. Because it is difficult for the public to make informed choices related to respiratory care services and since the consequences of wrong choices can seriously endanger public health and safety, it is the intent of the Legislature to prohibit the delivery of respiratory care services by persons who are unskilled or possess less than minimum competency to whose otherwise present a danger to the public. The delivery of respiratory care services by persons certified or registered pursuant to this part shall not be construed to permit the practice of medicine. It is the intent of the Legislature that the Department of Health and Rehabilitative Services shall continue to regulate blood gas laboratories and...
that the supervision of respiratory therapy technicians performing blood gas analysis be specified in rules pursuant to chapter 483. Further, it is the intent of the Legislature that personnel certified or registered pursuant to this part shall be exempt from the licensure provisions of chapter 483.

468.402 Short title.--This part shall be known and may be cited as the "Respiratory Care Act."

468.403 Definitions.--As used in this part, unless the context otherwise requires:

1. "Board" means the Board of Medical Examiners.
2. "Department" means the Department of Professional Regulation.
3. "Respiratory care" means the allied health specialty employed under the order of a physician licensed pursuant to chapter 458 or chapter 459, and in accordance with protocols established by the hospital, other health care provider, or the board, in the treatment, management, control, diagnostic evaluation, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system.
4. "Respiratory care services" include, but are not limited to, the following activities performed only upon the order of a physician licensed pursuant to chapter 458 or chapter 459, and in accordance with protocols established by the hospital, other health care provider, or the board: Therapeutic and diagnostic use of medical gases and administration apparatus, environmental control systems, humidification, and aerosols; administration of drugs and medications to the cardiopulmonary system; ventilatory support, including the maintenance and management of life support systems; bronchopulmonary drainage and breathing exercises; respiratory rehabilitation; assistance with CODING: Words stricken are deletions; words underlined are additions.
cardiopulmonary resuscitation; and maintenance of natural
airways, including the insertion of, and maintenance of,
artificial airways. The term also includes specific testing
techniques to assist in diagnosis, monitoring, treatment, and
research. Such techniques shall be understood to include
measurement of ventilatory volumes, pressures, and flows,
specimen collection and analysis of blood for gas transport
and acid/base determinations, pulmonary function testing, and
other related physiologic monitorings of cardiopulmonary
systems.

(5) "Respiratory therapy technician" means any person
certified pursuant to this part who is employed to deliver
respiratory care services under the order of a physician
licensed pursuant to chapter 458 or chapter 459, and in
accordance with protocols established by the hospital, other
health care provider, or the board.

(6) "Respiratory therapist" means any person
registered pursuant to this part who is employed to deliver
respiratory care services under the order of a physician
licensed pursuant to chapter 458 or chapter 459, and in
accordance with protocols established by the hospital, other
health care provider, or the board, and who functions in
situations of unsupervised patient contact requiring
individual judgment.

(7) "Direct supervision" means supervision and control
by a physician licensed pursuant to chapter 458 or chapter 459
who assumes legal liability for the services rendered by
personnel employed in his office. Except in cases of
emergency, direct supervision shall require the easy
availability within the office or physical presence of the

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physician for consultation and direction of the actions of
said personnel who deliver respiratory care services.

468.404 Advisory Council on Respiratory Care;
creation; function; powers and duties of the Board of Medical
Examiners; delegation of authority.--

(1) There is created the Advisory Council on
Respiratory Care under the supervision of the board.

(2) The council shall consist of five members
appointed by the board and shall include:

(a) A respiratory therapist.

(b) A respiratory therapy technician.

(c) A respiratory care professional from each of the
following areas:

1. Respiratory care education.
2. Respiratory care management and supervision.
3. Cardiopulmonary diagnostics.

All members of the council shall be respiratory care
professionals who have been actively engaged in the delivery
of respiratory care services in this state for at least 4
consecutive years prior to appointment.

(3)(a) Except as provided in paragraph (b), the term
of office for each council member shall be 4 years. No member
shall serve for more than two consecutive terms. Any time
there is a vacancy to be filled on the council, the Florida
Society for Respiratory Therapy shall recommend persons to
fill the vacancy to the council in a number at least twice the
number of vacancies to be filled, and the board may appoint
from the submitted list, in its discretion, any of those so
recommended. The board shall, insofar as possible, appoint
persons from different geographical areas.

CODING: Words stricken are deletions; words underlined are additions.
(b) In order to achieve staggering of terms, within 120 days after October 1, 1984, the board shall appoint the members of the council as follows:

1. One member shall be appointed for a term of 2 years.
2. Two members shall be appointed for terms of 3 years.
3. Two members shall be appointed for terms of 4 years.

(c) Unless otherwise provided by law, a council member shall be compensated $50 for each day he attends an official meeting of the council and for each day he participates in any other business involving the council. A council member shall also be entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of the state shall require the prior approval of the secretary of the department.

(4)(a) The council shall annually elect from among its members a chairman and vice chairman.
(b) The council shall meet at least twice a year and shall hold such additional meetings as are deemed necessary by the board.
(c) Three members of the council shall constitute a quorum.

(5)(a) The board may administer oaths, summon witnesses, and take testimony in all matters relating to its duties under this part.
(b) The board, with the assistance of the Advisory Council on Respiratory Care, is authorized to establish minimum standards for the delivery of respiratory care services and to adopt those rules necessary to administer this part.
(c) The board may delegate such powers and duties to the council as it may deem proper.

(6)(a) The council shall recommend to the department a code of ethics for those persons certified or registered pursuant to this part.

(b) The council shall make recommendations to the department for the approval of continuing education courses.

468.405 Eligibility for certification or registration.--

(1) To be eligible for certification by the board as a respiratory therapy technician, an applicant shall:

(a) Be at least 18 years old.
(b) Possess a high school diploma or the graduate equivalency diploma.
(c) Meet at least one of the following criteria:

1. The applicant has successfully completed a training program for respiratory therapy technicians or respiratory therapists approved by the Committee on Allied Health Education and Accreditation of the American Medical Association, or the equivalent thereof, as accepted by the board;
2. The applicant is currently a certified respiratory therapy technician certified by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board;
3. The applicant is currently a registered respiratory therapist registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board;
4. The applicant is currently employed in this state.

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as a respiratory therapy technician or respiratory therapist on the effective date of this act.

The criteria set forth in subparagraphs 2. and 3. notwithstanding, the board shall annually review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

(2) To be eligible for registration by the board as a respiratory therapist, an applicant shall:

(a) Be at least 18 years old.

(b) Possess a high school diploma or the graduate equivalency diploma.

(c) Meet at least one of the following criteria:

1. The applicant has successfully completed a training program for respiratory therapists approved by the Committee on Allied Health Education and Accreditation of the American Medical Association, or the equivalent thereof, as accepted by the board; or

2. The applicant is currently a registered respiratory therapist registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

The criteria set forth in subparagraphs 1. and 2. notwithstanding, the board shall annually review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

(3) With respect to the delivery of respiratory care services, the board shall establish procedures for temporary certification of eligible individuals entering the State of

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Florida and of those persons who have graduated from a program approved by the board. Such temporary certification shall be for a period not to exceed 1 year.  

468.406 Certification by examination.--  

(1) Any person desiring to be certified as a respiratory therapy technician may submit application to the board to take the examination to be administered by the department.  

(a) The department shall examine each applicant who is determined by the board to have:  

1. Completed the application form and remitted the application fee set by the board;  

2. Submitted required documentation as required in s. 468.405; and  

3. Remitted an examination fee set by the board.  

(b) The department shall conduct examinations for certification of respiratory therapy technicians no less than two times per year in such geographical locations as are deemed advantageous to the majority of the applicants.  

(c) The examination given for respiratory therapy technicians shall be the same as that given by the National Board for Respiratory Care for entry-level certification of respiratory therapy technicians. However, an equivalent examination may be accepted by the board in lieu thereof.  

(2) Each applicant who passes the examination shall be entitled to certification as a respiratory therapy technician and the department shall issue a certificate pursuant to this part to any applicant who successfully completes the examination in accordance with this section. However, the department shall not issue a certificate to any applicant who is under investigation in another jurisdiction for an offense.

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which would constitute a violation of this part. Upon completion of such an investigation, if the applicant is found guilty of such offense, the applicable provisions of ss. 468.412 shall apply.

(3)(a) Upon the effective date of this act, and except as provided in paragraph (b), graduates of board-approved programs for respiratory therapy technicians or respiratory therapists who graduated on or subsequent to the effective date shall have 1 year from the date of graduation in which to pass such examination if delivering respiratory care services under provisions specified in s. 468.405(3).

(b) Persons employed in this state on the effective date of this act as respiratory therapy technicians or respiratory therapists who do not hold the "Certified Respiratory Therapy Technician" credential issued by the National Board for Respiratory Care shall have 2 years in which to pass the examination as provided herein. However, any such person who wishes to be employed as a respiratory therapy technician or respiratory therapist after the 2 years specified herein must meet the requirements of this part.

468.497 Certification or registration by endorsement.

(1) Certification as a respiratory therapy technician shall be granted by endorsement to those individuals who hold the "Certified Respiratory Therapy Technician" credential issued by the National Board for Respiratory Care, or an equivalent credential acceptable to the board. Certification by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

CODING: Words stricken are deletions; words underlined are additions.
(2) Registration as a respiratory therapist shall be granted by endorsement to those individuals who hold the "Registered Respiratory Therapist" credential issued by the National Board for Respiratory Care, or an equivalent credential acceptable to the board. Registration by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

(3) Individuals who have been granted certification, registration, or other authority, by whatever name known, to deliver respiratory care services in another state or country may petition the board for consideration for certification or registration in this state, and, upon verification by oath and submission of evidence of certification, registration, or other authority acceptable to the board, may be granted certification or registration by endorsement.

(4) No certification or registration shall be granted by endorsement as provided in this section without submission of proper application and payment of requisite fees therefor.

468.408 Title and abbreviations.--

(1) Only persons who are certified pursuant to this part as respiratory therapy technicians shall have the right to use the title "Respiratory Therapy Technician" and the abbreviation "RTT."

(2) Only persons who are registered pursuant to this part as respiratory therapists shall have the right to use the title "Respiratory Therapist" and the abbreviation "RT."

(3) Only persons who are graduates of board-approved programs for respiratory therapy technicians may use the term "Graduate Respiratory Therapy Technician" and the abbreviation "GRTT."

CODING: Words stricken are deletions; words underlined are additions.
(4) Only persons who are graduates of board-approved programs for respiratory therapists may use the term "Graduate Respiratory Therapist" and the abbreviation "GRT."

(5) No person in this state shall deliver respiratory care services, advertise as, or assume the title of, respiratory therapy technician or respiratory therapist or use the abbreviation "RT" or "RT" or take any other action that would lead the public to believe that such person is certified or registered pursuant to this part unless such person is so certified or registered.

468.409 Renewal of certification or registration.--
(1) The department shall provide by rule a method for the biennial renewal of certification or registration at fees set by the board.

(2) Any certificate or registration which is not renewed at the end of the biennium prescribed by the department shall automatically revert to an inactive status and may be reactivated only if the certificateholder or registrant meets the requirements for reactivation set forth in s. 468.410.

(3) Sixty days prior to the end of the biennium and automatic reversion of certification or registration to inactive status, the department shall mail a notice of renewal and possible reversion to the last known address of the certificateholder or registrant.

(4) Every certificateholder or registrant shall file with the department the address of his primary place of service delivery within the state prior to engaging in same. Prior to changing such address, he shall notify the department of the address of his new primary place of service delivery, whether or not within the state.
The board shall by rule prescribe continuing education requirements, not to exceed 24 hours biennially, as a condition for renewal of certification or registration. The program criteria with respect thereto shall be approved by the board.

468.410 Inactive status; reactivation of certification or registration.--

(1) Any certificate or registration inactive for a period of less than 1 year may be reactivated upon payment of a penalty fee, to be set by the board, in addition to the required renewal fee. Any certificate or registration which is inactive for 1 year or more may be reactivated upon application to the department and payment of appropriate fees established thereby. However, if a certificateholder or registrant does not make application for reactivation of an inactive certificate or registration for more than 4 years, then such certificate or registration shall automatically expire and become null and void without any further action by the board or department. One year prior to such expiration, the department shall provide notice of impending expiration to the certificateholder or registrant.

(2) The board shall promulgate rules relating to reversion to inactive status or expiration of certification or registration, providing for the reactivation of inactive certification or registration and for the recertification or reregistration of persons whose state certification or registration has expired, and establishing appropriate fees therefor. However, the fee for the reactivation of an inactive certificate or registration shall not exceed $50 and the fee for the renewal of an inactive certificate or

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registration shall not exceed $50 for each year, or part
thereof, such certificate or registration remained inactive.

468.411 Fees.--

(1) The board shall by rule establish fees for the
following purposes:

(a) Application fee, not to exceed $50.
(b) Examination fee, not to exceed $100.
(c) Initial certification or registration fee, not to
exceed $200.
(d) Renewal of certification or registration fee, not
to exceed $200 biennially.
(e) Late renewal fee, not to exceed $50.
(f) Reactivation fee, not to exceed $50.

(2) Fees established pursuant to subsection (1) shall
be based upon actual costs incurred by the department in
carrying out its responsibilities under this part.

(3) All money collected by the department under this
part shall be deposited as required by s. 215.37.

(4) A hospital shall not be required to pay for or
reimburse any person for the costs of compliance with any of
the requirements of this part, including costs of continuing
education.

468.412 Disciplinary proceedings.--

(1) The following acts shall constitute grounds for
which the disciplinary actions in subsection (2) may be taken:

(a) Procuring, attempting to procure, or renewing a
certificate or registration as provided by this part by
bribery, by fraudulent misrepresentation, or through an error
of the department or the board.

(b) Having certification, registration, or other
authority, by whatever name known, to deliver respiratory care

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services revoked, suspended, or otherwise acted against, including the denial of certification, registration, or other authority to deliver respiratory care services, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to respiratory care services or to the ability to deliver such services.

(d) Willfully making or filing a false report or record, willfully failing to file a report or record required by state or federal law, or willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which require the signature of a certified respiratory therapy technician or a registered respiratory therapist.

(e) Circulating false, misleading, or deceptive advertising.

(f) Unprofessional conduct, which shall include, but not be limited to, any departure from, or failure to conform to, acceptable standards related to the delivery of respiratory care services, as set forth by the board and the Advisory Council on Respiratory Care in rules adopted pursuant to this part.

(g) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances, as set forth by law, for any other than legitimate purposes.

(h) Willfully failing to report any violation of this part.

(i) Willfully or repeatedly violating a rule of the board or the department, or a lawful order of the board or department previously entered in a disciplinary hearing.

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(j) Violation of any rule adopted pursuant to this part or chapter 455.

(k) Engaging in the delivery of respiratory care services on a revoked, suspended, or inactive certificate or registration.

(l) Permitting, aiding, assisting, procuring, or advising any person who is not certified or registered pursuant to this part, contrary to this part or to any rule of the department or the board.

(m) Failing to perform any statutory or legal obligation placed upon a certified respiratory therapy technician or a registered respiratory therapist.

(n) Accepting, and performing professional responsibilities which the certificateholder or registrant knows, or has reason to know, he is not competent to perform.

(o) Delegating professional responsibilities to a person when the certificateholder or registrant delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or certification or registration to perform them.

(p) Gross or repeated malpractice or the failure to deliver respiratory care services with that level of care, skill, and treatment which is recognized by a reasonably prudent respiratory therapy technician or respiratory therapist with similar professional training as being acceptable under similar conditions and circumstances.

(q) Paying or receiving any commission, bonus, kickback, or rebate from, or engaging in any split-fee arrangement in any form whatsoever with, a person, organization, or agency, either directly or indirectly, for goods or services rendered to patients referred by or to
providers of health care goods and services, including, out
not limited to, hospitals, nursing homes, clinical
laboratories, ambulatory surgical centers, or pharmacies. The
provisions of this paragraph shall not be construed to prevent
the certificateholder or registrant from receiving a fee for
professional consultation services.
(r) Exercising influence within a respiratory care
relationship for purposes of engaging a patient in sexual
activity. A patient shall be presumed to be incapable of
giving free, full, and informed consent to sexual activity
with his or her respiratory therapy technician or respiratory
therapist.
(s) Making deceptive, untrue, or fraudulent
representations in the delivery of respiratory care services
or employing a trick or scheme in the delivery of respiratory
care services when such a scheme or trick fails to conform to
the generally prevailing standards of other certificateholders
or registrants within the community.
(t) Soliciting patients, either personally or through
an agent, through the use of fraud, deception, or otherwise
misleading statements or through the exercise of intimidation
or undue influence.
(u) Failing to keep written respiratory care records
justifying the reason for the action taken by the
certificateholder or registrant.
(v) Exercising influence on the patient in such a
manner as to exploit the patient for financial gain of the
certificateholder or registrant or a third party, which shall
include, but not be limited to, the promoting or selling of
services, goods, appliances, or drugs.

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(w) Performing professional services which have not been duly ordered by a physician licensed pursuant to chapter 65 or chapter 659, and in accordance with protocols established by the hospital, other health care provider, or the board, except as provided in ss. 743.064, 768.13, and 768.46.

(x) Being unable to deliver respiratory care services with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material as a result of any mental or physical condition. In enforcing this paragraph, the department shall, upon probable cause, have authority to compel a respiratory therapy technician or respiratory therapist to submit to a mental or physical examination by physicians designated by the department. The cost of examination shall be borne by the certificateholder or registrant being examined. Failure of a respiratory therapy technician or respiratory therapist to submit to such an examination when so directed shall constitute an admission of the allegations against him, unless the failure was due to circumstances beyond his control, consequent upon which a default and a final order may be entered without the taking of testimony or presentation of evidence. A respiratory therapy technician or respiratory therapist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent delivery of respiratory care services with reasonable skill and safety to his patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against a respiratory therapy technician or respiratory therapist in any other proceeding.
(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for certification or registration.

(b) Revocation or suspension of certification or registration.

(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.

(d) Placement of the respiratory therapy technician or respiratory therapist on probation for such period of time and subject to such conditions as the board may specify, including requiring the respiratory therapy technician or respiratory therapist to submit to treatment, to attend continuing education courses, or to work under the supervision of another respiratory therapy technician or respiratory therapist.

(e) Issuance of a reprimand.

(3) The board shall not reinstate certification or registration, or cause a certificate or registration to be issued to a person it has deemed unqualified, until such time as it is satisfied that such person has complied with all the terms and conditions set forth in the final order and that the respiratory therapy technician or respiratory therapist is capable of safely engaging in the delivery of respiratory care services.

(4) The board may by rule establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum fines, periods of supervision on probation, or conditions upon probation or reissuance of a certificate or registration.

468.413 Penalties for violations.--

CODING: Words stricken are deletions; words underlined are additions.
It shall be a violation of law for any person, including any firm, association, or corporation, to:

(a) Sell or fraudulently obtain, attempt to obtain, or furnish to any person a diploma, license, certificate, registration, or record, or aid or abet in the sale, procurement, or attempted procurement thereof.

(b) Deliver respiratory care services, as defined by this part or by rule of the board, under cover of any diploma, license, certificate, registration, or record illegally or fraudulently obtained or signed, or issued unlawfully or under fraudulent representation.

(c) Deliver respiratory care services, as defined by this part or by rule of the board, unless duly certified or registered to do so under the provisions of this part, or unless exempted pursuant to 6.448.417.

(d) Use, in connection with his or her name, any designation tending to imply that he or she is a certified respiratory therapy technician or a registered respiratory therapist, unless duly certified or registered under provisions of this part.

(e) Advertise an educational program as meeting the requirements of this part, or conduct an educational program for the preparation of respiratory therapy technicians or respiratory therapists, unless such program has been approved by the board.

(f) Knowingly employ uncertified or unregistered persons in the delivery of respiratory care services, unless exempted by this part.

(g) Knowingly conceal information relative to any violation of this part.

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(2) Any violation of this section shall be a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

468.414 Injunctive relief.--The department may, in its discretion, in lieu of or in addition to any remedy set forth in this part, file a proceeding in the name of the state seeking issuance of a restraining order, injunction, or writ of mandamus against any person who is or has been violating any of the provisions of this part or the lawful rules, orders, or subpoenas of the department or board.

468.415 Approval of educational programs.--

(1) Approval of educational programs shall be in accordance with the Joint Review Committee for Respiratory Therapy Education through the Committee on Allied Health Education and Accreditation of the American Medical Association.

(2) In the event that an educational program has not yet received full American Medical Association approval, the board, at its discretion, may require appropriate documentation of the intent to achieve full accreditation within a specified time period. Temporary approval for graduates of such programs to sit for state certification or registration examinations may then be granted by the board.

468.416 Continuing education.--

(1) No renewal of a certificate or registration shall be issued by the department until the certificateholder or registrant submits proof satisfactory to the board that, during the 2 years prior to his application for renewal, he has participated in no fewer than 24 hours of continuing professional respiratory care education, in courses approved by the board.

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**6.6b: The board shall approve continuing education programs, as determined by the board, for the purposes of meeting the requirements of this section.**

**6.6c: The board may make exceptions from the requirements of this section for hardship cases.**

**6.6d: The board may levy fines, within the requirements of this section, that are necessary for implementation of this section.**

**6.6e: Exemptions.**

- No exemptions exist for the delivery of respiratory care services by respiratory care professionals, including those who are licensed or credentialed by the National Board for Respiratory Care (NBRC). These professionals must complete their respective programs and pass the required examination provided by board rule. The delivery of respiratory care services by any unqualified persons is prohibited by this regulation.

- The delivery of respiratory care services by non-qualifying persons of this state, or of any other state, is prohibited by the United States government and the state of New Jersey.

**6.6f: The delivery of respiratory care services by any non-qualified person, including discharge of his official duty, is to be done by a respiratory therapist who is licensed in the state of New Jersey or an individual certified in the state of New Jersey.**

**6.6g: The delivery of respiratory care services by any non-qualified person, including discharge of his official duty, is to be done by a respiratory therapist who is licensed in the state of New Jersey or an individual certified in the state of New Jersey.**

**6.6h: The delivery of respiratory care services by any non-qualified person, including discharge of his official duty, is to be done by a respiratory therapist who is licensed in the state of New Jersey or an individual certified in the state of New Jersey.**

**6.6i: The delivery of respiratory care services by any non-qualified person, including discharge of his official duty, is to be done by a respiratory therapist who is licensed in the state of New Jersey or an individual certified in the state of New Jersey.**
(6) Respiratory care services provided in case of an emergency by an individual who does not represent himself as, or hold himself out to be, a respiratory therapy technician or respiratory therapist.

(7) The delivery of respiratory care services by individuals employed in the office of, and under the direct supervision and control of, a physician licensed pursuant to chapter 458 or chapter 459.

(8) The employment by a health care facility of a student enrolled in the clinical portion of an approved respiratory care educational program, who has demonstrated such enrollment to the board by submission of evidence satisfactory thereto, to deliver limited respiratory care support services under supervision of personnel certified or registered pursuant to this part. However, said employees shall not perform invasive procedures or procedures related to critical respiratory care, including therapeutic, diagnostic, and palliative procedures, nor shall they participate in delivering certain services requiring unsupervised patient contact, as determined by the board.

Section 2. Section 468.404, Florida Statutes, is repealed on October 1, 1994, and the Advisory Council on Respiratory Care shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes, the Sundown Act.

Section 3. Part VI of chapter 468, Florida Statutes, as created herein, is repealed on October 1, 1994, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes, the Regulatory Sunset Act.

Section 4. This act shall take effect October 1, 1984.
HOUSE BILL

Created part VI of Chapter 400, P.C.L., the "Respiratory Care Act." Created the Advisory Council on Respiratory Care under the supervision of the Board of Medical Examiners within the Division of Professions of the Department of Professional Regulation to carry out whatever functions are assigned to it by the board. The board shall act as the regulatory body, under authority of the department, governing certification, registration, and regulation of respiratory therapy technicians and respiratory therapists. Provides for state certification of respiratory therapy technicians by examination or endorsement. Provides for state registration of respiratory therapists by endorsement only. Restricts use of certain titles and abbreviations. Provides for renewal of certificates or registration and for reversion of same to inactive status upon failure to renew. Provides for reactivation. Provides for automatic expiration. Provides for fees and for the disposition of same. Protects hospitals from liability for costs of compliance. Specifies grounds for discipline and provides administrative penalties therefor. Specifies unlawful acts and provides a third-degree felony penalty therefor. Provides for injunctive relief. Provides continuing education requirements and provides for approval of educational programs. Exempts certain activities from regulation under the act.

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STATE GOVERNMENT IMPACT

In compliance with Rule 7.16, there is hereby submitted a fiscal note on the above listed bill relative to the effect on revenues, expenditures, or fiscal liability of the State.

I. DESCRIPTION OF BILL:
A. Fund or Tax Affected
   Professional Regulation Trust Fund
   License Fees
B. Principal Agency Affected
   Department of Professional Regulation
   Board of Medical Examiners
   Advisory Council on Respiratory Care
C. Sponsor's Statement of Purpose
   To regulate providers of respiratory care services.
D. Narrative Summary
   1. Creates Part VI of Chapter 468, F.S., consisting of sections 468.401 through 468.417. Please refer to the attached staff summary prepared by the Regulatory Reform committee for an in-depth analysis of this bill.
   2. Section 468.411, F.S. Imposes the following fees on persons seeking licensure as respiratory care providers:
      a. application fee ................. no more than $50
      b. examination fee ................ no more than $100
      c. initial registration fee; biennial registration renewal fee .......... no more than $200
      d. inactive registration renewal;
         registration reactivation fee ........ no more than $50
      e. renewal of inactive registration fee ... no more than $50
   Allows the department to establish the actual fees, based on the expected regulatory costs which will be incurred.

II. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:
A. Non-Recurring or First Year Start-up Effects
   F.Y. 1984-85 revenue effect: Indeterminate gain
   (unknown due to unspecified fee amounts; reduced by October 1 effective date)
B. Recurring or Annualized Continuation Effects
   F.Y. 1985-86 revenue effect: Indeterminate gain
   (unknown due to unspecified fee amounts)
C. Long Run Effects other than Normal Growth
   None
D. Appropriations Consequences/Source of Funds
   F.Y. 1984-85 administrative cost: $195,000
   (reduced effect due to October 1 effective date)
   F.Y. 1985-86 administrative cost: $266,000

III. COMMENTS:
   1. The major change in the committee substitute deals with the creation of an "inactive registration" licensure classification.
   2. This legislation is scheduled to take effect October 1, 1984.

Staff Director

84h0775a13
STATE OF FLORIDA
HOUSE OF REPRESENTATIVES

Prepared 5/21/84
by the Committee on
Appropriations

1984
FISCAL NOTE

CS/HR 775
BILL NUMBER
As Amended

In compliance with Rule 7.16, there is hereby submitted a fiscal note on the above listed bill relative to the effect on revenues, expenditures, or fiscal liability of the State, and of Local Governments as a whole.

I. DESCRIPTION OF BILL

A. Fund or Tax Affected
   Professional Regulation Trust Fund

B. Principal Agency Affected
   Department of Professional Regulation

C. Narrative Summary
   This bill enacts the "Respiratory Care Act" by creating Part VI of Chapter 468, F.S. The bill requires demonstration of competency at the respiratory therapy technician level as a prerequisite for the delivery of respiratory care services in the State of Florida.

   This bill establishes a five member advisory council under the Board of Medical Examiners, within the Department of Professional Regulation, to assist in the administration of this Act.

   The bill provides for state certification of respiratory therapy technicians by examination or endorsement. It provides for state registration of respiratory therapists by endorsement only.

   This bill provides for biennial renewal of certification or registration. The bill authorizes the board to establish fees for various purposes, and specifies that fees shall be based on actual costs incurred by the Department. It provides that revenues are to be deposited into the Professional Regulation Trust Fund. The bill relieves hospitals from the obligation to pay for or reimburse any person for the costs of any of the requirements of this Act.

   This bill specifies grounds for discipline and provides administrative penalties. It also provides that the penalty for criminal violations shall be a felony of the third degree.

   The bill provides continuing education requirements and provides for approval of educational programs. The bill also exempts certain activities from regulation under this Act.

   Effective date: October 1, 1984

II. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS

A. Non-Recurring or First Year Start-up Effects
   Operating Capital Outlay $ 2,500

B. Recurring or Annualized Continuation Effects
   Revenue: Exam and License Fees $423,155 $ 60,000 $334,700
   Expenditures: Salaries and Benefits (2 FTE) $ 18,554 $ 24,965 $ 24,965
   Other Personal Services 125,000 126,702 126,702
   Expenses 47,016 65,736 65,736
   Data Processing Services 10,246 7,732 7,732
   Total Expenditures $195,716 $225,135 $225,135

(Page 1 of 2)
C. Long Run Effects other than Normal Growth

None

D. Appropriations Consequences

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<th>Year</th>
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<th>Expenditures</th>
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<td>$423,155</td>
<td>$198,216</td>
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<tr>
<td>1985-86</td>
<td>$60,000</td>
<td>$225,135</td>
</tr>
<tr>
<td>1986-87</td>
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<td>$225,135</td>
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</table>

III. DIRECT IMPACT ON THE PRIVATE SECTOR:

The cost of regulating the delivery of respiratory care services will be paid by those being regulated.

IV. COMMENTS:

None

[Signatures of Staff Director and Staff Analyst]
A bill to be entitled
An act relating to respiratory care; creating
part VI of chapter 468, F S ; providing
purpose, entitling the part as the "Respiratory
Care Practice Act"; providing definitions;
creating the Advisory Council on Respiratory
Care under the Board of Medical Examiners
within the Department of Professional
Regulation; providing for rules, membership,
terms, organization, meetings, and quorum
thereof; providing regulatory powers and duties
of the board; providing qualifications for
eligibility for certification as a respiratory
therapy technician or registration as a
respiratory therapist; providing for temporary
practice; providing for certification by
examination; providing for certification or
registration by endorsement; restricting use of
certain titles and abbreviations associated
with the practice of respiratory care;
providing for renewal of certificate or
registration; providing for reversion to
inactive status; providing for reactivation;
providing for automatic expiration; providing
for the promulgation of rules; providing for
fees and for the disposition thereof; providing
grounds for disciplinary action and providing
administrative penalties therefor; providing
criminal penalties for certain activities;
providing for injunctive relief, providing for
approval of educational programs; providing
continuing education requirements; providing exemptions; providing for future review and repeal; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Part VI of chapter 468, Florida Statutes, consisting of sections 468.401 through 468.417, Florida Statutes, is created to read:

PART VI
RESPIRATORY CARE

468.401 Purpose.--The sole purpose in enacting this part is to ensure that every respiratory care practitioner in this state meets necessary requirements for safe practice. It is the finding of the Legislature that the practice of respiratory care by unskilled and incompetent practitioners presents a danger to the public health and safety. Therefore, because it is difficult for the public to make an informed choice about respiratory care practitioners, and the consequences of a wrong choice could seriously endanger public health and safety, respiratory care practitioners who fall below minimum competencies or who otherwise present a danger to the public shall be prohibited from practicing in this state. Nothing in this part, however, shall be construed to permit the practice of medicine by a respiratory care practitioner.

468.402 Short title.--This part shall be known and may be cited as the "Respiratory Care Practice Act."

468.403 Definitions.--As used in this part, unless the context otherwise requires:

(1) "Board" means the Board of Medical Examiners.
"Department" means the Department of Professional Regulation.

"Practice of respiratory care" includes, but is not limited to, the following activities performed only upon the order of a physician licensed pursuant to chapter 458 or chapter 459: Therapeutic and diagnostic use of medical gases and administration apparatus, environmental control systems, humidification, and aerosols; administration of drugs and medications to the cardiopulmonary system; ventilatory support, including the maintenance and management of life support systems; bronchopulmonary drainage and breathing exercises; respiratory rehabilitation; assistance with cardiopulmonary resuscitation; and maintenance of natural airways, including the insertion of, and maintenance of, artificial airways. The term also includes specific testing techniques to assist in diagnosis, monitoring, treatment, and research. Such techniques shall be understood to include measurement of ventilatory volumes, pressures, and flows, specimen collection and analysis of blood and other materials, pulmonary function testing, and other related physiologic monitorings of cardiopulmonary systems.

"Respiratory care" means the allied health specialty employed under the order of a physician licensed pursuant to chapter 458 or chapter 459, and in accordance with protocols established by the hospital, other health care provider, or the board, in the treatment, management, control, diagnostic evaluation, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system.

"Respiratory therapy technician" means any person employed in the practice of respiratory care who, under the
order of a physician licensed pursuant to chapter 458 or
chapter 459:

(a) Administers respiratory care to patients of all
ages with varied diseases and to patients in need of acute,
critical, and chronic care.

(b) Serves as a resource of knowledge to the physician
and health care staff with respect to the technical aspects of
respiratory care and the effective and safe methods for
administering respiratory care.

(c) Has demonstrated minimum entry level competency
through completion of certification by the National Board for
Respiratory Care, or the equivalent thereof, as determined by
the board.

(5) "Respiratory therapist" means any person employed
in the practice of respiratory care who, under the order of a
physician licensed pursuant to chapter 458 or chapter 459,
administers respiratory care in accordance with education and
preparation as required under s. 468.405(2), and who, in
addition to functioning as provided in subsection (5):

(a) Functions in situations of unsupervised patient
contact requiring individual judgment.

(b) Has demonstrated advanced competency through
completion of registration by the National Board for
Respiratory Care, or the equivalent thereof, as determined by
the board.

468.404 Advisory Council on Respiratory Care;
creation; function; powers and duties of the Board of Medical
Examiners; delegation of authority.--

(1) There is created the Advisory Council on
Respiratory Care under the supervision of the board.
(2) The council shall consist of five members appointed by the board and shall include

(a) A respiratory therapist.
(b) A respiratory therapy technician
(c) A respiratory care professional from each of the following areas:

1. Respiratory care education.
2. Respiratory care management and supervision.
3. Cardiopulmonary diagnostics.

All members of the council shall be respiratory care professionals who have been actively engaged in the practice of respiratory care in this state for at least 4 consecutive years prior to appointment.

(3)(a) Except as provided in paragraph (b), the term of office for each council member shall be 4 years. No member shall serve for more than two consecutive terms. Any time there is a vacancy to be filled on the council, the Florida Society for Respiratory Therapy shall recommend persons to fill the vacancy to the council in a number at least twice the number of vacancies to be filled, and the board shall appoint from the submitted list, in its discretion, any of those so recommended. The board shall, insofar as possible, appoint persons from different geographical areas.

(b) In order to achieve staggering of terms, within 120 days after October 1, 1984, the board shall appoint the members of the council as follows

1. One member shall be appointed for a term of 2 years.
2. Two members shall be appointed for terms of 3 years.

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3. Two members shall be appointed for terms of 4 years.

(c) Unless otherwise provided by law, a council member shall be compensated $50 for each day he attends an official meeting of the council and for each day he participates in any other business involving the council. A council member shall also be entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of the state shall require the prior approval of the secretary of the department.

(4)(a) The council shall annually elect from among its members a chairman, vice chairman, and secretary.

(b) The council shall meet at least twice a year and shall hold such additional meetings as are deemed necessary by the board.

(c) Three members of the council shall constitute a quorum.

(5)(a) The board may administer oaths, summon witnesses, and take testimony in all matters relating to its duties under this part.

(b) The board, with the assistance of the Advisory Council on Respiratory Care, is authorized to establish minimum standards of practice and to adopt those rules necessary to administer this part.

(c) The board may delegate such powers and duties to the council as it may deem proper, including the examination of applicants and the carrying out of the mechanics and procedures necessary to effectuate this part.

(6)(a) The council shall recommend to the department a code of ethics for the practice of respiratory care.
(b) The council shall make recommendations to the
department for the improvement of continuing education
courses.

468.405 Eligibility for certification or
registration --

(1) Any person desiring to be certified as a
respiratory therapy technician shall submit to the board
evidence, verified by oath, that the applicant meets at least
one of the following criteria:

(a) The applicant has successfully completed a
training program for respiratory therapy technicians or
respiratory therapists approved by the Committee on Allied
Health Education and Accreditation of the American Medical
Association, or the equivalent thereof, as accepted by the
board;

(b) The applicant is currently a certified respiratory
therapy technician certified by the National Board for
Respiratory Care, or the equivalent thereof, as accepted by
the board;

(c) The applicant is currently a registered
respiratory therapist registered by the National Board for
Respiratory Care, or the equivalent thereof, as accepted by
the board; or

(d) The applicant is currently employed in this state
as a respiratory therapy technician or respiratory therapist
on the effective date of this act

The criteria set forth in paragraphs (b) and (c)
notwithstanding, the board shall, at some future date not less
than 4 years from the effective date of this act, review the
examinations and standards of the National Board for
Respiratory Care and may reject those examinations and standards if they are deemed inappropriate

(2) Any person desiring to be registered as a respiratory therapist shall submit to the board evidence, verified by oath, that the applicant meets at least one of the following criteria:

(a) The applicant has successfully completed a training program for respiratory therapists approved by the Committee on Allied Health Education and Accreditation of the American Medical Association, or the equivalent thereof, as accepted by the board; or

(b) The applicant is currently a registered respiratory therapist registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

The criteria set forth in paragraphs (a) and (b) notwithstanding, the board shall, at some future date not less than 4 years from the effective date of this act, review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

(3) The board shall establish provisions for the temporary practice of respiratory care by eligible individuals entering the State of Florida and by those graduate practitioners who have graduated from a program approved by the board.

468.406 Certification by examination.--

(1) Any person desiring to be certified as a respiratory therapy technician may submit application to the
board to take the examination to be administered by the
department.

(a) The department shall examine each applicant who is
determined by the board to have

1. Completed the application form;
2. Submitted required documentation;
3. Submitted proof that he is not less than 18 years
   of age, and
4. Remitted an examination fee set by the board

(b) The department shall conduct examinations for
certification of respiratory therapy technicians no less than
two times per year in such geographical locations as are
deemed advantageous to the majority of the applicants.

(c) The examination given for respiratory therapy
   technicians shall be the same as that given by the National
   Board for Respiratory Care for entry level certification of
   respiratory therapy technicians. However, an equivalent
   examination may be accepted by the board in lieu thereof

(2) Each applicant who passes the examination shall be
   entitled to certification as a respiratory therapy technician
   and the department shall issue a certificate to practice
   respiratory care to any applicant who successfully completes
   the examination in accordance with this section. However, the
department shall not issue a certificate to any applicant who
is under investigation in another jurisdiction for an offense
which would constitute a violation of this part. Upon
completion of such an investigation, if the applicant is found
guilty of such offense, the applicable provisions of s.
468.412 shall apply.
Upon the effective date of this act, in order to be certified as a respiratory therapy technician in this state:

(a) Except as provided in paragraph (b), graduates of board-approved programs for respiratory therapy technicians or respiratory therapists who graduated prior to said date shall have 1 year from said date in which to pass the entry-level examination as provided herein and graduates of such programs who graduated on or subsequent to said date shall have 1 year from the date of graduation in which to pass such examination.

(b) Persons employed in this state on said date as respiratory therapy technicians or respiratory therapists who do not hold the "Certified Respiratory Therapy Technician" credential issued by the National Board for Respiratory Care shall have 2 years from said date in which to pass the examination as provided herein.

468.407 Certification or registration by endorsement.--

(1) Certification as a respiratory therapy technician shall be granted by endorsement to those individuals who hold the "Certified Respiratory Therapy Technician" credential issued by the National Board for Respiratory Care, or an equivalent credential acceptable to the board. Certification by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

(2) Registration as a respiratory therapist shall be granted by endorsement to those individuals who hold the "Registered Respiratory Therapist" credential issued by the National Board for Respiratory Care, or an equivalent credential acceptable to the board. Registration by this...
mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

The provisions of subsections (1) and (2) may be rescinded by the board no fewer than 4 years from the effective date of this act if said credentials are determined by the board to be inadequate at that time.

(3) Individuals who have a license to practice respiratory care, by whatever name known, in another state or country may petition the board for consideration for certification or registration in this state, and, upon verification by oath and submission of evidence of licensure acceptable to the board, may be granted certification or registration by endorsement.

(4) No certification or registration shall be granted by endorsement as provided in this section without submission of proper application and payment of requisite fees therefor.

468 408 Title and abbreviations.--

(1) Only persons who are certified to practice as respiratory therapy technicians in this state shall have the right to use the title "Respiratory Therapy Technician" and the abbreviation "RTT."

(2) Only persons who are registered to practice as respiratory therapists in this state shall have the right to use the title "Respiratory Therapist" and the abbreviation "RT."

(3) Only persons who are graduates of board-approved programs for respiratory therapy technicians may use the term "Graduate Respiratory Therapy Technician" and the abbreviation "GRTT."
(4) Only persons who are graduates of board-approved programs for respiratory therapists may use the term "Graduate Respiratory Therapist" and the abbreviation "GRT."

(5) No person in this state shall practice or advertise as, or assume the title of, respiratory therapy technician or respiratory therapist or use the abbreviation "RTT" or "RT" or take any other action that would lead the public to believe that such person is certified or registered to practice in this state as such, unless such person is so certified or registered.

468.409 Renewal of certification or registration.--

(1) The department shall provide by rule a method for the biennial renewal of certification or registration at fees set by the board.

(2) Any certificate or registration which is not renewed at the end of the biennium prescribed by the department shall automatically revert to an inactive status and may be reactivated only if the certificateholder or registrant meets the requirements for reactivation set forth in s. 468.410.

(3) Sixty days prior to the end of the biennium and automatic reversion of certification or registration to inactive status, the department shall mail a notice of renewal and possible reversion to the last known address of the certificateholder or registrant.

(4) Every certificateholder or registrant shall file with the department the address of his primary place of practice within the state prior to engaging in that practice. Prior to changing such address, he shall notify the department of the address of his new primary place of practice, whether or not within the state.
(5) The board shall by rule prescribe continuing education requirements, not to exceed 24 hours biennially, as a condition for renewal of certification or registration. The program criteria with respect thereto shall be approved by the board.

468.410 Inactive status, reactivation of certification or registration.--

(1) Any certificate or registration inactive for a period of less than 1 year may be reactivated upon payment of a penalty fee, to be set by the board, in addition to the required renewal fee. Any certificate or registration which is inactive for 1 year or more may be reactivated upon application to the department and payment of appropriate fees established thereby. However, if a certificateholder or registrant does not make application for reactivation of an inactive certificate or registration for more than 4 years, then such certificate or registration shall automatically expire and become null and void without any further action by the board or department. One year prior to such expiration, the department shall provide notice of impending expiration to the certificateholder or registrant.

(2) The board shall promulgate rules relating to reversion to inactive status or expiration of certification or registration, providing for the reactivation of inactive certification or registration and for the recertification or reregistration of persons whose state certification or registration has expired, and establishing appropriate fees therefor. However, the fee for the reactivation of an inactive certificate or registration shall not exceed $50 and the fee for the renewal of an inactive certificate or
registrar shall not exceed $50 for each year, or part
thereof, such certificate or registration remained inactive.

468.411 Fees.--

(1) The board shall by rule establish fees for the
following purposes.
(a) Application fee, not to exceed $50.
(b) Examination fee, not to exceed $100.
(c) Initial certification or registration fee, not to
exceed $200.
(d) Renewal of certification or registration fee, not
to exceed $200 biennially.
(e) Late renewal fee, not to exceed $50.
(f) Reactivation fee, not to exceed $50.
(2) Fees established pursuant to subsection (1) shall
be based upon actual costs incurred by the department in
carrying out its responsibilities under this part.
(3) All moneys collected by the department under this
part shall be deposited as required by s. 215.37

468.412 Disciplinary proceedings.--

(1) The following acts shall constitute grounds for
which the disciplinary actions in subsection (2) may be taken:
(a) Procuring, attempting to procure, or renewing a
certificate or registration to practice respiratory care by
bribery, by fraudulent misrepresentation, or through an error
of the department or the board.
(b) Having a license to practice respiratory care, by
whatever name known, revoked, suspended, or otherwise acted
against, including the denial of licensure, by the licensing
authority of another state, territory, or country.
(c) Being convicted or found guilty, regardless of
adjudication, of a crime in any jurisdiction which directly
relates to the practice of respiratory care or to the ability to practice respiratory care.

(d) Willfully making or filing a false report or record, willfully failing to file a report or record required by state or federal law, or willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which require the signature of a certified respiratory therapy technician or a registered respiratory therapist.

(e) Circulating false, misleading, or deceptive advertising.

(f) Unprofessional conduct, which shall include, but not be limited to, any departure from, or failure to conform to, the minimum standards of acceptable and prevailing respiratory care practice, in which proceeding actual injury need not be established.

(g) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances, as set forth by law, for any other than legitimate purposes.

(h) Willfully failing to report any violation of this part.

(i) Willfully or repeatedly violating a rule of the board or the department, or a lawful order of the board or department previously entered in a disciplinary hearing.

(j) Advertising, practicing, or attempting to practice under a name other than one's own.

(k) Violation of any rule adopted pursuant to this part or chapter 455.

(l) Practicing on a revoked, suspended, or inactive certificate or registration.

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(m) Permitting, aiding, assisting, procuring, or advising any person who is not certified or registered in this state to practice respiratory care contrary to this part or to any rule of the department or the board.

(n) Failing to perform any statutory or legal obligation placed upon a certified respiratory therapy technician or a registered respiratory therapist.

(o) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the certificateholder or registrant knows, or has reason to know, he is not competent to perform.

(p) Conspiring with another certificateholder or registrant or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another certificateholder or registrant from lawfully advertising his service.

(q) Delegating professional responsibilities to a person when the certificateholder or registrant delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or certification or registration to perform them.

(r) Gross or repeated malpractice or the failure to practice respiratory care with that level of care, skill, and treatment which is recognized by a reasonably prudent respiratory therapy technician or respiratory therapist with similar professional training as being acceptable under similar conditions and circumstances.

(s) Paying or receiving any commission, bonus, kickback, or rebate from, or engaging in any split-fee arrangement in any form whatsoever with, a person.
organization, or agency, either directly or indirectly, for goods or services rendered to patients referred by or to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed so as to prevent the certificateholder or registrant from receiving a fee for professional consultation services.

(t) Exercising influence within a respiratory care relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her respiratory therapy technician or respiratory therapist.

(u) Making deceptive, untrue, or fraudulent representations in the practice of respiratory care or employing a trick or scheme in the practice of respiratory care when such a scheme or trick fails to conform to the generally prevailing standards of other certificateholders or registrants within the community.

(v) Soliciting patients, either personally or through an agent, through the use of fraud, deception, or otherwise misleading statements or through the exercise of intimidation or undue influence.

(w) Failing to keep written respiratory care records justifying the reason for the action taken by the certificateholder or registrant.

(x) Exercising influence on the patient in such a manner as to exploit the patient for financial gain of the certificateholder or registrant or a third party which shall

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include, but not be limited to, the promoting or selling of
services, goods, appliances, or drugs.

(y) Performing professional services which have not
been duly authorized by the patient or his legal
representative, except as provided in ss. 743.064, 768.13, and
768.46.

(z) Being unable to practice respiratory care with
reasonable skill and safety to patients by reason of illness
or use of alcohol, drugs, narcotics, chemicals, or any other
type of material as a result of any mental or physical
condition. In enforcing this paragraph, the department shall,
upon probable cause, have authority to compel a respiratory
therapy technician or respiratory therapist to submit to a
mental or physical examination by physicians designated by the
department. The cost of examination shall be borne by the
certificateholder or registrant being examined. Failure of a
respiratory therapy technician or respiratory therapist to
submit to such an examination when so directed shall
constitute an admission of the allegations against him, unless
the failure was due to circumstances beyond his control,
consequent upon which a default and a final order may be
entered without the taking of testimony or presentation of
evidence. A respiratory therapy technician or respiratory
therapist affected under this paragraph shall at reasonable
intervals be afforded an opportunity to demonstrate that he
can resume the competent practice of respiratory care with
reasonable skill and safety to his patients. In any
proceeding under this paragraph, neither the record of
proceedings nor the orders entered by the board shall be used
against a respiratory therapy technician or respiratory
therapist in any other proceeding.

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(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for certification or registration.

(b) Revocation or suspension of certification or registration.

(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.

(d) Placement of the respiratory therapy technician or respiratory therapist on probation for such period of time and subject to such conditions as the board may specify, including requiring the respiratory therapy technician or respiratory therapist to submit to treatment, to attend continuing education courses, or to work under the supervision of another respiratory therapy technician or respiratory therapist.

(e) Issuance of a reprimand.

(3) The board shall not reinstate the certification or registration of a respiratory care practitioner or cause a certificate or registration to be issued to a person it has deemed unqualified, until such time as it is satisfied that such person has complied with all the terms and conditions set forth in the final order and that the respiratory therapy technician or respiratory therapist is capable of safely engaging in the practice of respiratory care.

(4) The board may by rule establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum fines, periods of supervision on probation, or conditions of probation or reissuance of a certificate or registration.

468.413 Penalties for violations.--
(l) It shall be a violation of law for any person, including any firm, association, or corporation, to:

(a) Sell or fraudulently obtain, attempt to obtain, or furnish any respiratory care practitioner a diploma, license, certificate, registration, or record, or aid or abet in the sale, procurement, or attempted procurement thereof.

(b) Practice respiratory care, as defined by this part or by rule of the board, under cover of any diploma, license, certificate, registration, or record illegally or fraudulently obtained or signed, or issued unlawfully or under fraudulent representation.

(c) Practice respiratory care, as defined by this part or by rule of the board, unless duly certified or registered to do so under the provisions of this part.

(d) Use, in connection with his or her name, any designation tending to imply that he or she is a certified respiratory therapy technician or a registered respiratory therapist, unless duly certified or registered to practice as such under provisions of this part.

(e) Conduct an education program for the preparation of respiratory therapy technicians or respiratory therapists, unless such program has been approved by the board.

(f) Knowingly employ uncertified or unregistered persons in the practice of respiratory care.

(g) Knowingly conceal information relative to any violation of this part.

(2) Any violation of this section shall be a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

468.414 Injunctive relief.—The department may, in its discretion, in lieu of or in addition to any remedy set forth

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in this part, file a proceeding in the name of the state seeking issuance of a restraining order, injunction, or writ of mandamus against any person who is or has been violating any of the provisions of this part or the lawful rules, orders, or subpoenas of the department or board.

468.415 Approval of educational programs.--

(1) Approval of educational programs shall be in accordance with the Joint Review Committee for Respiratory Therapy Education through the Committee on Allied Health Education and Accreditation of the American Medical Association.

(2) In the event that an educational program has not yet received full American Medical Association approval, the board, at its discretion, may require appropriate documentation of the intent to achieve full accreditation within a specified time period. Temporary approval for graduates of such programs to sit for state certification or registration examinations may then be granted by the board.

468.416 Continuing education.--

(1) No renewal of a certificate or registration shall be issued by the department until the certificateholder or registrant submits proof satisfactory to the board that during the 2 years prior to his application for renewal he has participated in no fewer than 24 hours of continuing professional respiratory care education, in courses approved by the board.

(2) The board shall approve only those courses that build upon basic courses required for the practice of respiratory care. Providers of such courses shall also be approved by the board.

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(3) The board may make exceptions from the requirements of this section in emergency or hardship cases.

(4) The board may adopt rules, within the requirements of this section, that are necessary for implementation of this section.

468.417 Exemptions.—Nothing in this part shall be construed to prohibit:

(1) The practice of respiratory care by medical personnel who have been formally trained in these modalities and who are duly licensed or credentialed pertaining to their respective professions.

(2) Cardiopulmonary testing by individuals who are credentialed by the National Board for Respiratory Care as Certified Pulmonary Function Technologists (CPFT).

(3) The practice of respiratory care by students, as an integral part of the program of study of those enrolled in respiratory care educational programs approved by the board.

(4) The practice of respiratory care by individuals who are enrolled in a respiratory care educational program approved by the board, who provide verification of meeting program standards of progress according to a periodic reporting process established by the board, and who have entered the clinical portion of the program. Exemption under this subsection shall be for a period not to exceed 3 consecutive years following the initiation of the clinical portion of the program. Individuals eligible for practice under this provision shall not practice beyond the level of respiratory therapy technician.

(5) The practice of respiratory care at the level of respiratory therapy technician, for 1 year following graduation, by graduates of educational programs for
respiratory therapy technicians or respiratory therapists approved by the board.

(6) The practice of any legally qualified respiratory care practitioner of this state, or of any other state or territory, who is employed by the United States Government or any agency thereof, while in the discharge of his official duties.

(7) Any certified respiratory therapy technician or registered respiratory therapist from performing advances in the art and techniques of respiratory care, which advances were learned and documented through formal or specialized training.

(8) The gratuitous care of the ill by a friend or member of the family who does not represent himself as, or hold himself out to be, a respiratory therapy technician or respiratory therapist.

(9) Respiratory care services provided in case of an emergency by an individual who does not represent himself as, or hold himself out to be, a respiratory therapy technician or a respiratory therapist.

Section 2. Section 468.404, Florida Statutes, is repealed on October 1, 1994, and the Advisory Council on Respiratory Care shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes, the Sundown Act.

Section 3. Part VI of chapter 468, Florida Statutes, as created herein, is repealed on October 1, 1994, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes, the Regulatory Sunset Act.

Section 4. This act shall take effect October 1, 1984.
HOUSE SUMMARY

Creates part VI of chapter 468, F.S., the "Respiratory Care Practice Act." Creates the Advisory Council on Respiratory Care under the supervision of the Board of Medical Examiners within the Division of Professions of the Department of Professional Regulation to carry out whatever functions are assigned to it by the board. The board shall act as the regulatory body, under authority of the department, governing certification, registration, and regulation of respiratory therapy technicians and respiratory therapists. Provides for state certification of respiratory therapy technicians by examination or endorsement. Provides for state registration of respiratory therapists by endorsement only. Restricts use of certain titles and abbreviations. Provides for renewal of certificate or registration and for reversion of same to inactive status upon failure to renew. Provides for reactivation. Provides for automatic expiration. Provides for fees and for the disposition of same. Specifies grounds for discipline and provides administrative penalties therefor. Specifies unlawful acts and provides a third-degree felony penalty therefor. Provides for injunctive relief. Provides continuing education requirements and provides for approval of educational programs. Exempts certain activities from regulation under the act.

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An act relating to respiratory care, creating
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protecting hospitals from liability for costs
of compliance, providing grounds for
disciplinary action and providing
administrative penalties therefor, providing
criminal penalties for certain activities;

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providing for injunctive relief; providing for
approval of educational programs; providing
continuing education requirements; providing
exceptions; providing for future review and
repeal; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Part VI of chapter 468, Florida Statutes,
consisting of sections 468.401 through 468.417, Florida
Statutes, is created to read:

PART VI
RESPIRATORY CARE

468.401 Purpose and intent.--The purpose in enacting
this part is to provide for the certification and registration
of persons who deliver respiratory care services and who meet
certain requirements. It is the finding of the Legislature
that the delivery of respiratory care services by unskilled
and incompetent persons presents a danger to the public health
and safety. Because it is difficult for the public to make
informed choices related to respiratory care services and
since the consequences of wrong choices can seriously endanger
public health and safety, it is the intent of the Legislature
to prohibit the delivery of respiratory care services by
persons who are determined to possess less than minimum
competencies or who otherwise present a danger to the public.
The delivery of respiratory care services by persons certified
or registered pursuant to this part shall not be construed to
permit the practice of medicine. It is the intent of the
Legislature that the Department of Health and Rehabilitative
Services shall continue to regulate blood gas laboratories and
that the supervision of respiratory therapy technicians performing blood gas analysis be specified in rules pursuant
to chapter 483. Further, it is the intent of the Legislature that personnel certified or registered pursuant to this part shall be exempt from the licensure provisions of chapter 483.

468 402 Short title --This part shall be known and may be cited as the "Respiratory Care Act."" 468 403 Definitions.--As used in this part, unless the context otherwise requires:

(1) "Board" means the Board of Medical Examiners
(2) "Department" means the Department of Professional Regulation.
(3) "Respiratory care" means the allied health specialty employed under the order of a physician licensed pursuant to chapter 458 or chapter 459, and in accordance with protocols established by the hospital, other health care provider, or the board, in the treatment, management, control, diagnostic evaluation, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system.
(4) "Respiratory care services" include, but are not limited to, the following activities performed only upon the order of a physician licensed pursuant to chapter 458 or chapter 459, and in accordance with protocols established by the hospital, other health care provider, or the board therapeutic and diagnostic use of medical gases and administration apparatus, environmental control systems, humidification, and aerosols, administration of drugs and medications to the cardiopulmonary system, ventilatory support, including the maintenance and management of life support systems, bronchopulmonary drainage and breathing exercises; respiratory rehabilitation; assistance with
cardiopulmonary resuscitation; and maintenance of natural airways, including the insertion of, and maintenance of, artificial airways. The term also includes specific testing techniques to assist in diagnosis, monitoring, treatment, and research. Such techniques shall be understood to include measurement of ventilatory volumes, pressures, and flows, specimen collection and analysis of blood for gas transport and acid/base determinations, pulmonary function testing, and other related physiologic monitorings of cardiopulmonary systems.

(5) "Respiratory therapy technician" means any person certified pursuant to this part who is employed to deliver respiratory care services under the order of a physician licensed pursuant to chapter 458 or chapter 459, and in accordance with protocols established by the hospital, other health care provider, or the board.

(6) "Respiratory therapist" means any person registered pursuant to this part who is employed to deliver respiratory care services under the order of a physician licensed pursuant to chapter 458 or chapter 459, and in accordance with protocols established by the hospital, other health care provider, or the board, and who functions in situations of unsupervised patient contact requiring individual judgment.

(7) "Direct supervision" means supervision and control by a physician licensed pursuant to chapter 458 or chapter 459 who assumes legal liability for the services rendered by personnel employed in his office. Except in cases of emergency, direct supervision shall require the easy availability within the office or physical presence of the
311-1664-84  CS for SB 881

1. physician for consultation and direction of the actions of
2. said personnel who deliver respiratory care services

3. 468.404 Advisory Council on Respiratory Care,
4. creation, function; powers and duties of the Board of Medical
5. Examiners, delegation of authority --
6. (1) There is created the Advisory Council on
7. Respiratory Care under the supervision of the board
8. (2) The council shall consist of five members
9. appointed by the board and shall include.
10. (a) A respiratory therapist
11. (b) A respiratory therapy technician
12. (c) A respiratory care professional from each of the
13. following areas
15. 2. Respiratory care management and supervision.
16. 3. Cardiopulmonary diagnostics.
17. All members of the council shall be respiratory care
18. professionals who have been actively engaged in the delivery
19. of respiratory care services in this state for at least 4
20. consecutive years prior to appointment
21. (3)(a) Except as provided in paragraph (b), the term
22. of office for each council member shall be 4 years. No member
23. shall serve for more than two consecutive terms. Any time
24. there is a vacancy to be filled on the council, the Florida
25. Society for Respiratory Therapy shall recommend persons to
26. fill the vacancy to the council in a number at least twice the
27. number of vacancies to be filled, and the board may appoint
28. from the submitted list, in its discretion, any of those so
29. recommended. The board shall, insofar as possible, appoint
30. persons from different geographical areas

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(b) In order to achieve staggering of terms, within 120 days after October 1, 1984, the board shall appoint the members of the council as follows:

1. One member shall be appointed for a term of 2 years.
2. Two members shall be appointed for terms of 3 years.
3. Two members shall be appointed for terms of 4 years.

(c) Unless otherwise provided by law, a council member shall be compensated $50 for each day he attends an official meeting of the council and for each day he participates in any other business involving the council. A council member shall also be entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of the state shall require the prior approval of the secretary of the department.

(4)(a) The council shall annually elect from among its members a chairman and vice chairman.
(b) The council shall meet at least twice a year and shall hold such additional meetings as are deemed necessary by the board.
(c) Three members of the council shall constitute a quorum.

(5)(a) The board may administer oaths, summon witnesses, and take testimony in all matters relating to its duties under this part.
(b) The board, with the assistance of the Advisory Council on Respiratory Care, is authorized to establish minimum standards for the delivery of respiratory care services and to adopt those rules necessary to administer this part.

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(c) The board may delegate such powers and duties to the council as it may deem proper.

(6)(a) The council shall recommend to the department a code of ethics for those persons certified or registered pursuant to this part.

(b) The council shall make recommendations to the department for the approval of continuing education courses pursuant to this part.

To be eligible for certification by the board as a respiratory therapy technician, an applicant shall

(a) Be at least 18 years old.

(b) Possess a high school diploma or the graduate equivalency diploma

(c) Meet at least one of the following criteria

1. The applicant has successfully completed a training program for respiratory therapy technicians or respiratory therapists approved by the Committee on Allied Health Education and Accreditation of the American Medical Association, or the equivalent thereof, as accepted by the board.

2. The applicant is currently a certified respiratory therapy technician certified by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board;

3. The applicant is currently a registered respiratory therapist registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board; or

4. The applicant is currently employed in this state...
as a respiratory therapy technician or respiratory therapist on the effective date of this act.

The criteria set forth in subparagraphs 2. and 3. notwithstanding, the board shall annually review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

(2) To be eligible for registration by the board as a respiratory therapist, an applicant shall:
   (a) Be at least 18 years old.
   (b) Possess a high school diploma or the graduate equivalency diploma.
   (c) Meet at least one of the following criteria:
      1. The applicant has successfully completed a training program for respiratory therapists approved by the Committee on Allied Health Education and Accreditation of the American Medical Association, or the equivalent thereof, as accepted by the board; or
      2. The applicant is currently a registered respiratory therapist registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

The criteria set forth in subparagraphs 1. and 2. notwithstanding, the board shall annually review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

(3) With respect to the delivery of respiratory care services, the board shall establish procedures for temporary certification of eligible individuals entering the State of...
Florida and of those persons who have graduated from a program approved by the board. Such temporary certification shall be for a period not to exceed 1 year.

468.406 Certification by examination —

(1) Any person desiring to be certified as a respiratory therapy technician may submit application to the board to take the examination to be administered by the department.

(a) The department shall examine each applicant who is determined by the board to have

1. Completed the application form and remitted the application fee set by the board,
2. Submitted required documentation as required in s. 468.405; and
3. Remitted an examination fee set by the board.

(b) The department shall conduct examinations for certification of respiratory therapy technicians no less than two times per year in such geographical locations as are deemed advantageous to the majority of the applicants.

(c) The examination given for respiratory therapy technicians shall be the same as that given by the National Board for Respiratory Care for entry-level certification of respiratory therapy technicians. However, an equivalent examination may be accepted by the board in lieu thereof.

(2) Each applicant who passes the examination shall be entitled to certification as a respiratory therapy technician and the department shall issue a certificate pursuant to this part to any applicant who successfully completes the examination in accordance with this section. However, the department shall not issue a certificate to any applicant who is under investigation in another jurisdiction for an offense.
which would constitute a violation of this part. Upon
completion of such an investigation, if the applicant is found
guilty of such offense, the applicable provisions of s.
468.412 shall apply.

(3)(a) Upon the effective date of this act, and except
as provided in paragraph (b), graduates of board-approved
programs for respiratory therapy technicians or respiratory
therapists who graduated on or subsequent to the effective
date shall have 1 year from the date of graduation in which to
pass such examination if delivering respiratory care services
under provisions specified in s 468.405(3).

(b) Persons employed in this state on the effective
date of this act as respiratory therapy technicians or
respiratory therapists who do not hold the "Certified
Respiratory Therapy Technician" credential issued by the
National Board for Respiratory Care shall have 2 years in
which to pass the examination as provided herein. However,
any such person who wishes to be employed as a respiratory
therapy technician or respiratory therapist after the 2 years
specified herein must meet the requirements of this part.

468.407 Certification or registration by
endorsement.--

(1) Certification as a respiratory therapy technician
shall be granted by endorsement to those individuals who hold
the "Certified Respiratory Therapy Technician" credential
issued by the National Board for Respiratory Care, or an
equivalent credential acceptable to the board. Certification
by this mechanism requires verification by oath and submission
of evidence satisfactory to the board that such credential is
held.
(2) Registration as a respiratory therapist shall be granted by endorsement to those individuals who hold the "Registered Respiratory Therapist" credential issued by the National Board for Respiratory Care, or an equivalent credential acceptable to the board. Registration by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

(3) Individuals who have been granted certification, registration, or other authority, by whatever name known, to deliver respiratory care services in another state or country may petition the board for consideration for certification or registration in this state, and, upon verification by oath and submission of evidence of certification, registration, or other authority acceptable to the board, may be granted certification or registration by endorsement.

(4) No certification or registration shall be granted by endorsement as provided in this section without submission of proper application and payment of requisite fees therefor.

468.408 Title and abbreviations --

(1) Only persons who are certified pursuant to this part as respiratory therapy technicians shall have the right to use the title "Respiratory Therapy Technician" and the abbreviation "RTT."

(2) Only persons who are registered pursuant to this part as respiratory therapists shall have the right to use the title "Respiratory Therapist" and the abbreviation "RT."

(3) Only persons who are graduates of board-approved programs for respiratory therapy technicians may use the term "Graduate Respiratory Therapy Technician" and the abbreviation "GRTT."

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(4) Only persons who are graduates of board-approved programs for respiratory therapists may use the term "Graduate Respiratory Therapist" and the abbreviation "GRT."

(5) No person in this state shall deliver respiratory care services, advertise as, or assume the title of, respiratory therapy technician or respiratory therapist or use the abbreviation "RTT" or "RT" or take any other action that would lead the public to believe that such person is certified or registered pursuant to this part unless such person is so certified or registered.

468.409 Renewal of certification or registration.--

(1) The department shall provide by rule a method for the biennial renewal of certification or registration at fees set by the board.

(2) Any certificate or registration which is not renewed at the end of the biennium prescribed by the department shall automatically revert to an inactive status and may be reactivated only if the certificateholder or registrant meets the requirements for reactivation set forth in s. 468.410.

(3) Sixty days prior to the end of the biennium and automatic reversion of certification or registration to inactive status, the department shall mail a notice of renewal and possible reversion to the last known address of the certificateholder or registrant.

(4) Every certificateholder or registrant shall file with the department the address of his primary place of service delivery within the state prior to engaging in same. Prior to changing such address, he shall notify the department of the address of his new primary place of service delivery, whether or not within the state.
(5) The board shall by rule prescribe continuing education requirements, not to exceed 24 hours biennially, as a condition for renewal of certification or registration. The program criteria with respect thereto shall be approved by the board.

468.410 Inactive status, reactivation of certification or registration --

(1)(a) Any certificate or registration which reverts to the inactive status pursuant to the provisions set forth in § 468.409, may be reactivated upon application to the department and payment of appropriate fees.

(b) The board shall prescribe by rule continuing education requirements as a condition of reactivating a certificate or registration. The continuing education requirements for reactivating a certificate or registration shall not exceed 12 classroom hours for each year the certificate or registration was inactive.

(c) Any certificate or registration which has been inactive for more than 4 years shall automatically expire if the certificateholder or registrant has not made application for renewal of the inactive status of such certificate or registration or reactivation of the certificate or registration. Once a certificate or registration expires, it becomes null and void without any further action by the board or department. One year prior to expiration of the certificate or registration, the department shall give notice to the certificateholder or registrant.

(2) The board shall adopt rules relating to reversion to inactive status and to expiration of certification or registration, renewal of an inactive certification or registration, reactivation of inactive certification or registration.
(b) Having certification, registration, or other authority, by whatever name known, to deliver respiratory care services revoked, suspended, or otherwise acted against, including the denial of certification, registration, or other authority to deliver respiratory care services, by the licensing authority of another state, territory, or country

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to respiratory care services or to the ability to deliver such services

(d) Willfully making or filing a false report or record, willfully failing to file a report or record required by state or federal law, or willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which require the signature of a certified respiratory therapy technician or a registered respiratory therapist

(e) Circulating false, misleading, or deceptive advertising

(f) Unprofessional conduct, which shall include, but not be limited to, any departure from, or failure to conform to, acceptable standards related to the delivery of respiratory care services, as set forth by the board and the Advisory Council on Respiratory Care in rules adopted pursuant to this part

(g) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances, as set forth by law, for any other than legitimate purposes

(h) Willfully failing to report any violation of this part.
registration, and recertification and reregistration of
persons whose state certification or registration has expired,
and establish fees therefor.

468.411 Fees.--
(1) The board shall by rule establish fees for the
following purposes:
(a) Application fee, not to exceed $50.
(b) Examination fee, not to exceed $100.
(c) Initial certification or registration fee, not to
exceed $200.
(d) Renewal of certification or registration fee, not
to exceed $200 biennially.
(e) Renewal of inactive certification or registration,
not to exceed $50.
(f) Reactivation fee, not to exceed $50.
(2) Fees established pursuant to subsection (1) shall
be based upon actual costs incurred by the department in
carrying out its responsibilities under this part.
(3) All moneys collected by the department under this
part shall be deposited as required by s. 215.37.
(4) A hospital shall not be required to pay for or
reimburse any person for the costs of compliance with any of
the requirements of this part, including costs of continuing
education.

468.412 Disciplinary proceedings.--
(1) The following acts shall constitute grounds for
which the disciplinary actions in subsection (2) may be taken:
(a) Procuring, attempting to procure, or renewing a
certificate or registration as provided by this part by
bribery, by fraudulent misrepresentation, or through an error
of the department or the board.

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(1) Willfully or repeatedly violating a rule of the board or the department, or a lawful order of the board or department previously entered in a disciplinary hearing.

(j) Violation of any rule adopted pursuant to this part or chapter 455.

(k) Engaging in the delivery of respiratory care services on a revoked, suspended, or inactive certificate or registration.

(l) Permitting, aiding, assisting, procuring, or advising any person who is not certified or registered pursuant to this part, contrary to this part or to any rule of the department or the board.

(m) Failing to perform any statutory or legal obligation placed upon a certified respiratory therapy technician or a registered respiratory therapist.

(n) Accepting and performing professional responsibilities which the certificateholder or registrant knows, or has reason to know, he is not competent to perform.

(o) Delegating professional responsibilities to a person when the certificateholder or registrant delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or certification or registration to perform them.

(p) Gross or repeated malpractice or the failure to deliver respiratory care services with that level of care, skill, and treatment which is recognized by a reasonably prudent respiratory therapy technician or respiratory therapist with similar professional training as being acceptable under similar conditions and circumstances.

(q) Paying or receiving any commission, bonus, kickback, or rebate from, or engaging in any split-fee

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arrangement in any form whatsoever with a person,
organization, or agency, either directly or indirectly, for
goods or services rendered to patients referred by or to
providers of health care goods and services, including, but
not limited to, hospitals, nursing homes, clinical
laboratories, ambulatory surgical centers, or pharmacies. The
provisions of this paragraph shall not be construed to prevent
the certificateholder or registrant from receiving a fee for
professional consultation services

(r) Exercising influence within a respiratory care
relationship for purposes of engaging a patient in sexual
activity. A patient shall be presumed to be incapable of
giving free, full, and informed consent to sexual activity
with his or her respiratory therapy technician or respiratory
therapist.

(s) Making deceptive, untrue, or fraudulent
representations in the delivery of respiratory care services
or employing a trick or scheme in the delivery of respiratory
care services when such a scheme or trick fails to conform to
the generally prevailing standards of other certificateholders
or registrants within the community

(t) Soliciting patients, either personally or through
an agent, through the use of fraud, deception, or otherwise
misleading statements or through the exercise of intimidation
or undue influence

(u) Failing to keep written respiratory care records
justifying the reason for the action taken by the
certificateholder or registrant

(v) Exercising influence on the patient in such a
manner as to exploit the patient for financial gain of the
certificateholder or registrant or a third party, which shall
include, but not be limited to, the promoting or selling of
services, goods, appliances, or drugs.

(w) Performing professional services which have not
been duly ordered by a physician licensed pursuant to chapter
458 or chapter 459, and in accordance with protocols
established by the hospital, other health care provider, or
the board, except as provided in ss. 743.064, 768.13, and
768.46.

(x) Being unable to deliver respiratory care services
with reasonable skill and safety to patients by reason of
illness or use of alcohol, drugs, narcotics, chemicals, or any
other type of material as a result of any mental or physical
condition. In enforcing this paragraph, the department shall,
upon probable cause, have authority to compel a respiratory
therapy technician or respiratory therapist to submit to a
mental or physical examination by physicians designated by the
department. The cost of examination shall be borne by the
certificateholder or registrant being examined. Failure of a
respiratory therapy technician or respiratory therapist to
submit to such an examination when so directed shall
constitute an admission of the allegations against him, unless
the failure was due to circumstances beyond his control,
consequent upon which a default and a final order may be
entered without the taking of testimony or presentation of
evidence. A respiratory therapy technician or respiratory
therapist affected under this paragraph shall at reasonable
intervals be afforded an opportunity to demonstrate that he
can resume the competent delivery of respiratory care services
with reasonable skill and safety to his patients. In any
proceeding under this paragraph, neither the record of
proceedings nor the orders entered by the board shall be used

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against a respiratory therapy technician or respiratory therapist in any other proceeding

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties

(a) Denial of an application for certification or registration

(b) Revocation or suspension of certification or registration.

(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense

(d) Placement of the respiratory therapy technician or respiratory therapist on probation for such period of time and subject to such conditions as the board may specify, including requiring the respiratory therapy technician or respiratory therapist to submit to treatment, to attend continuing education courses, or to work under the supervision of another respiratory therapy technician or respiratory therapist

(e) Issuance of a reprimand.

(3) The board shall not reinstate certification or registration, or cause a certificate or registration to be issued to a person it has deemed unqualified, until such time as it is satisfied that such person has complied with all the terms and conditions set forth in the final order and that the respiratory therapy technician or respiratory therapist is capable of safely engaging in the delivery of respiratory care services.

(4) The board may by rule establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum

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fines, periods of supervision on probation, or conditions upon
probation or reissuance of a certificate or registration.

468.413 Penalties for violations --
(1) It shall be a violation of law for any person,
including any firm, association, or corporation, to.
(a) Sell or fraudulently obtain, attempt to obtain, or
furnish to any person a diploma, license, certificate,
registration, or record, or aid or abet in the sale,
procurement, or attempted procurement thereof.
(b) Deliver respiratory care services, as defined by
this part or by rule of the board, under cover of any diploma,
license, certificate, registration, or record illegally or
fraudulently obtained or signed, or issued unlawfully or under
fraudulent representation.
(c) Deliver respiratory care services, as defined by
this part or by rule of the board, unless duly certified or
registered to do so under the provisions of this part, or
unless exempted pursuant to s. 468 417.
(d) Use, in connection with his or her name, any
designation tending to imply that he or she is a certified
respiratory therapy technician or a registered respiratory
therapist, unless duly certified or registered under
provisions of this part.
(e) Advertise an educational program as meeting the
requirements of this part, or conduct an educational program
for the preparation of respiratory therapy technicians or
respiratory therapists, unless such program has been approved
by the board.
(f) Knowingly employ uncertified or unregistered
persons in the delivery of respiratory care services, unless
exempted by this part.
(g) Knowingly conceal information relative to any violation of this part

(2) Any violation of this section shall be a felony of the third degree, punishable as provided in s 775.082, s 775.083, or s 775.084

468.414 Injunctive relief.--The department may, in its discretion, in lieu of or in addition to any remedy set forth in this part, file a proceeding in the name of the state seeking issuance of a restraining order, injunction, or writ of mandamus against any person who is or has been violating any of the provisions of this part or the lawful rules, orders, or subpoenas of the department or board

468.415 Approval of educational programs --

(1) Approval of educational programs shall be in accordance with the Joint Review Committee for Respiratory Therapy Education through the Committee on Allied Health Education and Accreditation of the American Medical Association.

(2) In the event that an educational program has not yet received full American Medical Association approval, the board, at its discretion, may require appropriate documentation of the intent to achieve full accreditation within a specified time period. Temporary approval for graduates of such programs to sit for state certification or registration examinations may then be granted by the board

468.416 Continuing education --

(1) No renewal of a certificate or registration shall be issued by the department until the certificateholder or registrant submits proof satisfactory to the board that, during the 2 years prior to his application for renewal, he has participated in no fewer than 24 hours of continuing
professional respiratory care education, in courses approved
by the board.

(2) The board shall approve continuing education
courses which may be accepted in meeting the requirements of
this part. Providers of such courses shall also be approved
by the board.

(3) The board may make exceptions from the
requirements of this section in emergency or hardship cases.

(4) The board may adopt rules, within the requirements
of this section, that are necessary for implementation of this
section.

468 417 Exemptions.--Nothing in this part shall be
construed to prohibit:

(1) The delivery of respiratory care services by
medical personnel who have been formally trained in these
modalities and who are duly licensed or credentialed
pertaining to their respective professions.

(2) Cardiopulmonary testing by individuals who are
credentialed by the National Board for Respiratory Care as
Certified Pulmonary Function Technologists (CPFT).

(3) The delivery of respiratory care services by
students, as an integral part of the program of study of those
enrolled in educational programs of any health care profession
as determined by board rule.

(4) The delivery of respiratory care services by any
legally qualified person of this state, or of any other state
or territory, who is employed by the United States Government
or any agency thereof, while in the discharge of his official
duties.

(5) The gratuitous care of the ill by a friend or
member of the family who does not represent himself as, or

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hold himself out to be, a respiratory therapy technician or respiratory therapist

(6) Respiratory care services provided in case of an emergency by an individual who does not represent himself as, or hold himself out to be, a respiratory therapy technician or respiratory therapist

(7) The delivery of respiratory care services by individuals employed in the office of, and under the direct supervision and control of, a physician licensed pursuant to chapter 458 or chapter 459

(8) The employment by a health care facility of a student enrolled in the clinical portion of an approved respiratory care educational program, who has demonstrated such enrollment to the board by submission of evidence satisfactory thereto, to deliver limited respiratory care support services under supervision of personnel certified or registered pursuant to this part. However, said employees shall not perform invasive procedures or procedures related to critical respiratory care, including therapeutic, diagnostic, and palliative procedures, nor shall they participate in delivering certain services requiring unsupervised patient contact, as determined by the board.

Section 2. Section 468 404, Florida Statutes, is repealed on October 1, 1994, and the Advisory Council on Respiratory Care shall be reviewed by the Legislature pursuant to s 11 611, Florida Statutes, the Sundown Act

Section 3 Part VI of chapter 468, Florida Statutes, as created herein, is repealed on October 1, 1994, and shall be reviewed by the Legislature pursuant to s 11 61, Florida Statutes, the Regulatory Sunset Act

Section 4. This act shall take effect October 1, 1984

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Statement of Substantial Changes Contained in Committee Substitute for Senate Bill 881

- Changes the short title to the "Respiratory Care Act."
- Replaces the phrase "practice of respiratory care" with "delivery of respiratory care services" throughout the bill.
- Amends the definitions of respiratory therapy technician and respiratory therapist.
- Defines "direct supervision" as supervision and control by a licensed physician who assumes legal liability for the services rendered by the personnel employed in his office.
- Amends the eligibility requirements for certification and registration to require that applicants for either be 18 years old and have a high school or graduate equivalency diploma.
- Requires the board to annually review the examinations and standards of the National Board of Respiratory Care.
- Limits temporary certification to a period of one year.
- Amends section 468.406, Florida Statutes, to provide that graduates of board approved programs who graduated on or subsequent to the effective date shall have 1 year from the date of graduation in which to pass the examination if delivering respiratory care services under temporary certification.
- Deletes the provision relating to certification or registration by endorsement which prohibits the board from rescinding the endorsement provisions for 4 years after enactment.
- Provides that a hospital shall not be required to pay for or reimburse any person for the costs of compliance with any of the bill's requirements including costs of continuing education.
- Authorizes the board and advisory council to adopt rules establishing acceptable standards related to the delivery of respiratory therapy care services.
- Deletes two provisions relating to advertising from the grounds for disciplinary action section (s. 468.412).
- Amends the exemptions section to include and exclude certain individuals.