

1 AN ACT concerning professional regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Regulatory Sunset Act is amended by changing
5 Section 4.16 and by adding Section 4.26 as follows:

6 (5 ILCS 80/4.16)

7 Sec. 4.16. Acts repealed January 1, 2006. The following
8 Acts are repealed January 1, 2006:

9 ~~The Respiratory Care Practice Act.~~

10 The Hearing Instrument Consumer Protection Act.

11 The Illinois Dental Practice Act.

12 The Professional Geologist Licensing Act.

13 The Illinois Athletic Trainers Practice Act.

14 The Barber, Cosmetology, Esthetics, and Nail Technology
15 Act of 1985.

16 The Collection Agency Act.

17 The Illinois Roofing Industry Licensing Act.

18 The Illinois Physical Therapy Act.

19 (Source: P.A. 89-33, eff. 1-1-96; 89-72, eff. 12-31-95; 89-80,
20 eff. 6-30-95; 89-116, eff. 7-7-95; 89-366, eff. 7-1-96; 89-387,
21 eff. 8-20-95; 89-626, eff. 8-9-96.)

22 (5 ILCS 80/4.26 new)

23 Sec. 4.26. Act repealed on January 1, 2016. The following
24 Act is repealed on January 1, 2016:

25 The Respiratory Care Practice Act.

26 Section 10. The Respiratory Care Practice Act is amended by
27 changing Sections 10, 15, 20, 35, 50, and 95 as follows:

28 (225 ILCS 106/10)

29 (Section scheduled to be repealed on January 1, 2006)

1 Sec. 10. Definitions. In this Act:

2 "Advanced practice nurse" means an advanced practice nurse
3 licensed under the Nursing and Advanced Practice Nursing Act.

4 "Board" means the Respiratory Care Board appointed by the
5 Director.

6 "Basic respiratory care activities" means and includes all
7 of the following activities:

8 (1) Cleaning, disinfecting, and sterilizing equipment
9 used in the practice of respiratory care as delegated by a
10 licensed health care professional or other authorized
11 licensed personnel.

12 (2) Assembling equipment used in the practice of
13 respiratory care as delegated by a licensed health care
14 professional or other authorized licensed personnel.

15 (3) Collecting and reviewing patient data through
16 non-invasive means, provided that the collection and
17 review does not include the individual's interpretation of
18 the clinical significance of the data. Collecting and
19 reviewing patient data includes the performance of pulse
20 oximetry and non-invasive monitoring procedures in order
21 to obtain vital signs and notification to licensed health
22 care professionals and other authorized licensed personnel
23 in a timely manner.

24 (4) Maintaining a nasal cannula or face mask for oxygen
25 therapy in the proper position on the patient's face.

26 (5) Assembling a nasal cannula or face mask for oxygen
27 therapy at patient bedside in preparation for use.

28 (6) Maintaining a patient's natural airway by
29 physically manipulating the jaw and neck, suctioning the
30 oral cavity, or suctioning the mouth or nose with a bulb
31 syringe.

32 (7) Performing assisted ventilation during emergency
33 resuscitation using a manual resuscitator.

34 (8) Using a manual resuscitator at the direction of a
35 licensed health care professional or other authorized
36 licensed personnel who is present and performing routine

1 airway suctioning. These activities do not include care of
2 a patient's artificial airway or the adjustment of
3 mechanical ventilator settings while a patient is
4 connected to the ventilator.

5 "Basic respiratory care activities" does not mean activities
6 that involve any of the following:

7 (1) Specialized knowledge that results from a course of
8 education or training in respiratory care.

9 (2) An unreasonable risk of a negative outcome for the
10 patient.

11 (3) The assessment or making of a decision concerning
12 patient care.

13 (4) The administration of aerosol medication or
14 oxygen.

15 (5) The insertion and maintenance of an artificial
16 airway.

17 (6) Mechanical ventilatory support.

18 (7) Patient assessment.

19 (8) Patient education.

20 "Department" means the Department of Professional
21 Regulation.

22 "Director" means the Director of Professional Regulation.

23 "Licensed" means that which is required to hold oneself out
24 as a respiratory care practitioner as defined in this Act.

25 "Licensed health care professional" means a physician
26 licensed to practice medicine in all its branches, an advanced
27 practice nurse who has a written collaborative agreement with a
28 collaborating physician that authorizes the advanced practice
29 nurse to transmit orders to a respiratory care practitioner, or
30 a physician assistant who has been delegated the authority to
31 transmit orders to a respiratory care practitioner by his or
32 her supervising physician ~~physician" means a physician~~
33 ~~licensed to practice medicine in all its branches.~~

34 "Order" means a written, oral, or telecommunicated
35 authorization for respiratory care services for a patient by
36 (i) a licensed health care professional who maintains medical

1 supervision of the patient and makes a diagnosis or verifies
2 that the patient's condition is such that it may be treated by
3 a respiratory care practitioner or (ii) a certified registered
4 nurse anesthetist in a licensed hospital or ambulatory surgical
5 treatment center.

6 "Other authorized licensed personnel" means a licensed
7 respiratory care practitioner, a licensed registered nurse, or
8 a licensed practical nurse whose scope of practice authorizes
9 the professional to supervise an individual who is not
10 licensed, certified, or registered as a health professional.

11 "Proximate supervision" means a situation in which an
12 individual is responsible for directing the actions of another
13 individual in the facility and is physically close enough to be
14 readily available, if needed, by the supervised individual.

15 "Respiratory care" and "cardiorespiratory care" mean
16 preventative services, evaluation and assessment services,
17 therapeutic services, and rehabilitative services under the
18 order of a licensed health care professional or a certified
19 registered nurse anesthetist in a licensed hospital for an
20 individual with a disorder, disease, or abnormality of the
21 cardiopulmonary system. These terms include, but are not
22 limited to, measuring, observing, assessing, and monitoring
23 signs and symptoms, reactions, general behavior, and general
24 physical response of individuals to respiratory care services,
25 including the determination of whether those signs, symptoms,
26 reactions, behaviors, or general physical responses exhibit
27 abnormal characteristics; the administration of
28 pharmacological and therapeutic agents related to respiratory
29 care services; the collection of blood specimens and other
30 bodily fluids and tissues for, and the performance of,
31 cardiopulmonary diagnostic testing procedures, including, but
32 not limited to, blood gas analysis; development,
33 implementation, and modification of respiratory care treatment
34 plans based on assessed abnormalities of the cardiopulmonary
35 system, respiratory care guidelines, referrals, and orders of a
36 licensed health care professional; application, operation, and

1 management of mechanical ventilatory support and other means of
2 life support; and the initiation of emergency procedures under
3 the rules promulgated by the Department. A respiratory care
4 practitioner shall refer to a physician licensed to practice
5 medicine in all its branches any patient whose condition, at
6 the time of evaluation or treatment, is determined to be beyond
7 the scope of practice of the respiratory care practitioner.
8 ~~include, but are not limited to, direct and indirect services~~
9 ~~in the implementation of treatment, management, disease~~
10 ~~prevention, diagnostic testing, monitoring, and care of~~
11 ~~patients with deficiencies and abnormalities associated with~~
12 ~~the cardiopulmonary system, including (i) a determination of~~
13 ~~whether such signs and symptoms, reactions, behavior, and~~
14 ~~general response exhibit abnormal characteristics and (ii)~~
15 ~~implementation of treatment based on the observed~~
16 ~~abnormalities, of appropriate reporting, referral, respiratory~~
17 ~~care protocols, or changes in treatment pursuant to the~~
18 ~~written, oral, or telephone transmitted orders of a licensed~~
19 ~~physician. "Respiratory care" includes the transcription and~~
20 ~~implementation of written, oral, and telephone transmitted~~
21 ~~orders by a licensed physician pertaining to the practice of~~
22 ~~respiratory care and the initiation of emergency procedures~~
23 ~~under rules promulgated by the Board or as otherwise permitted~~
24 ~~in this Act. The practice of respiratory care may be performed~~
25 ~~in any clinic, hospital, skilled nursing facility, private~~
26 ~~dwelling, or other place considered appropriate by the Board in~~
27 ~~accordance with the written, oral, or telephone transmitted~~
28 ~~order of a physician and shall be performed under the direction~~
29 ~~of a licensed physician. "Respiratory care" includes~~
30 ~~inhalation and respiratory therapy.~~

31 "Respiratory care education program" means a course of
32 academic study leading to eligibility for registry or
33 certification in respiratory care. The training is to be
34 approved by an accrediting agency recognized by the Board and
35 shall include an evaluation of competence through a
36 standardized testing mechanism that is determined by the Board

1 to be both valid and reliable.

2 "Respiratory care practitioner" means a person who is
3 licensed by the Department of Professional Regulation and meets
4 all of the following criteria:

5 (1) The person is engaged in the practice of
6 cardiorespiratory care and has the knowledge and skill
7 necessary to administer respiratory care.

8 (2) The person is capable of serving as a resource to
9 the licensed health care professional ~~physician~~ in
10 relation to the technical aspects of cardiorespiratory
11 care and the safe and effective methods for administering
12 cardiorespiratory care modalities.

13 (3) The person is able to function in situations of
14 unsupervised patient contact requiring great individual
15 judgment.

16 ~~(4) The person is capable of supervising, directing, or~~
17 ~~teaching less skilled personnel in the provision of~~
18 ~~respiratory care services.~~

19 (Source: P.A. 89-33, eff. 1-1-96.)

20 (225 ILCS 106/15)

21 (Section scheduled to be repealed on January 1, 2006)

22 Sec. 15. Exemptions.

23 (a) This Act does not prohibit a person legally regulated
24 in this State by any other Act from engaging in any practice
25 for which he or she is authorized. ~~as long as he or she does not~~
26 ~~represent himself or herself by the title of respiratory care~~
27 ~~practitioner. This Act does not prohibit the practice of~~
28 ~~nonregulated professions whose practitioners are engaged in~~
29 ~~the delivery of respiratory care as long as these practitioners~~
30 ~~do not represent themselves as or use the title of a~~
31 ~~respiratory care practitioner.~~

32 (b) Nothing in this Act shall prohibit the practice of
33 respiratory care by a person who is employed by the United
34 States government or any bureau, division, or agency thereof
35 while in the discharge of the employee's official duties.

1 (c) Nothing in this Act shall be construed to limit the
2 activities and services of a person enrolled in an approved
3 course of study leading to a degree or certificate of registry
4 or certification eligibility in respiratory care if these
5 activities and services constitute a part of a supervised
6 course of study and if the person is designated by a title
7 which clearly indicates his or her status as a student or
8 trainee. Status as a student or trainee shall not exceed 3
9 years from the date of enrollment in an approved course.

10 (d) Nothing in this Act shall prohibit a person from
11 treating ailments by spiritual means through prayer alone in
12 accordance with the tenets and practices of a recognized church
13 or religious denomination.

14 (e) Nothing in this Act shall be construed to prevent a
15 person who is a registered nurse, an advanced practice nurse,
16 ~~or a certified registered nurse anesthetist or~~ a licensed
17 practical nurse, a physician assistant, or a physician licensed
18 to practice medicine in all its branches from providing
19 respiratory care.

20 (f) Nothing in this Act shall limit a person who is
21 credentialed by the National Society for Cardiopulmonary
22 Technology or the National Board for Respiratory Care from
23 performing pulmonary function tests and ~~related~~ respiratory
24 care procedures related to the pulmonary function test ~~for~~
25 ~~which appropriate competencies have been demonstrated.~~

26 (g) Nothing in this Act shall prohibit the collection and
27 analysis of blood by clinical laboratory personnel meeting the
28 personnel standards of the Illinois Clinical Laboratory Act.

29 (h) Nothing in this Act shall prohibit a polysomnographic
30 technologist, technician, or trainee, as defined in the job
31 descriptions jointly accepted by the American Academy of Sleep
32 Medicine, the Association of Polysomnographic Technologists,
33 the Board of Registered Polysomnographic Technologists, and
34 the American Society of Electroneurodiagnostic Technologists,
35 from performing activities within the scope of practice of
36 polysomnographic technology while under the direction of a

1 ~~physician licensed in this State limit the activities of a~~
2 ~~person who is not licensed under this Act from performing~~
3 ~~respiratory care if he or she does not represent himself or~~
4 ~~herself as a respiratory care practitioner.~~

5 (i) ~~Nothing in this Act shall prohibit a family member from~~
6 ~~providing respiratory care services to an ill person~~ qualified
7 ~~members of other professional groups, including but not limited~~
8 ~~to nurses, from performing or advertising that he or she~~
9 ~~performs the work of a respiratory care practitioner in a~~
10 ~~manner consistent with his or her training, or any code of~~
11 ~~ethics of his or her respective professions, but only if he or~~
12 ~~she does not represent himself or herself by any title or~~
13 ~~description as a respiratory care practitioner.~~

14 (j) Nothing in this Act shall be construed to limit an
15 unlicensed practitioner in a licensed hospital who is working
16 under the proximate supervision of a licensed health care
17 professional or other authorized licensed personnel and
18 providing direct patient care services from performing basic
19 respiratory care activities if the unlicensed practitioner (i)
20 has been trained to perform the basic respiratory care
21 activities at the facility that employs or contracts with the
22 individual and (ii) at a minimum, has annually received an
23 evaluation of the unlicensed practitioner's performance of
24 basic respiratory care activities documented by the facility.

25 ~~This Act does not prohibit a hospital, nursing home, long-term~~
26 ~~care facility, home health agency, health system or network, or~~
27 ~~any other organization or institution that provides health or~~
28 ~~illness care for individuals or communities from providing~~
29 ~~respiratory care through practitioners that the organization~~
30 ~~considers competent. These entities shall not be required to~~
31 ~~utilize licensed respiratory care practitioners to practice~~
32 ~~respiratory care when providing respiratory care for their~~
33 ~~patients or customers. Organizations providing respiratory~~
34 ~~care may decide who is competent to deliver that respiratory~~
35 ~~care. Nothing in this Act shall be construed to limit the~~
36 ~~ability of an employer to utilize a respiratory care~~

1 ~~practitioner within the employment setting consistent with the~~
2 ~~individual's skill and training.~~

3 (k) Nothing in this Act shall be construed to prohibit a
4 person enrolled in an approved course of study leading to a
5 degree or certification in a health care-related discipline
6 that provides respiratory care activities within his or her
7 scope of practice and employed in a licensed hospital in order
8 to provide direct patient care services under the direction of
9 other authorized licensed personnel from providing respiratory
10 care activities.

11 (Source: P.A. 91-259, eff. 1-1-00.)

12 (225 ILCS 106/20)

13 (Section scheduled to be repealed on January 1, 2006)

14 Sec. 20. Restrictions and limitations.

15 (a) No person shall, without a valid license as a
16 respiratory care practitioner (i) hold himself or herself out
17 to the public as a respiratory care practitioner; ~~or~~ (ii) use
18 the title "respiratory care practitioner"; or (iii) perform the
19 duties of a respiratory care practitioner, except as provided
20 in Section 15 of this Act.

21 (b) Nothing in the Act shall be construed to permit a
22 person licensed as a respiratory care practitioner to engage in
23 any manner in the practice of medicine in all its branches as
24 defined by State law.

25 (Source: P.A. 89-33, eff. 1-1-96.)

26 (225 ILCS 106/35)

27 (Section scheduled to be repealed on January 1, 2006)

28 Sec. 35. Respiratory Care Board.

29 (a) The Director shall appoint a Respiratory Care Board
30 which shall serve in an advisory capacity to the Director. The
31 Board shall consist of 9 persons of which 4 members shall be
32 currently engaged in the practice of respiratory care with a
33 minimum of 3 years practice in the State of Illinois, 3 members
34 shall be qualified medical directors, and 2 members shall be

1 hospital administrators.

2 (b) Members shall be appointed to a 3-year term; except,
3 initial appointees shall serve the following terms: 3 members
4 shall serve for one year, 3 members shall serve for 2 years,
5 and 3 members shall serve for 3 years. A member whose term has
6 expired shall continue to serve until his or her successor is
7 appointed and qualified. No member shall be reappointed to the
8 Board for a term that would cause his or her continuous service
9 on the Board to be longer than 8 years. Appointments to fill
10 vacancies shall be made in the same manner as original
11 appointments for the unexpired portion of the vacated term.
12 Initial terms shall begin upon the effective date of this Act.

13 (c) The membership of the Board shall reasonably represent
14 all the geographic areas in this State. The Director shall
15 consider the recommendations of the organization representing
16 the largest number of respiratory care practitioners for
17 appointment of the respiratory care practitioner members of the
18 Board and the organization representing the largest number of
19 ~~licensed~~ physicians licensed to practice medicine in all its
20 branches for the appointment of medical directors to the board.

21 (d) The Director has the authority to remove any member of
22 the Board from office for neglect of any duty required by law,
23 for incompetence ~~incompetency~~, or for unprofessional or
24 dishonorable conduct.

25 (e) The Director shall consider the recommendations of the
26 Board on questions involving standards of professional
27 conduct, discipline, and qualifications of candidates for
28 licensure under this Act.

29 (f) The members of the Board shall be reimbursed for all
30 legitimate and necessary expenses incurred in attending
31 meetings of the Board.

32 (Source: P.A. 89-33, eff. 1-1-96.)

33 (225 ILCS 106/50)

34 (Section scheduled to be repealed on January 1, 2006)

35 Sec. 50. Qualifications for a license.

1 (a) A person is qualified to be licensed as a licensed
2 respiratory care practitioner, and the Department may issue a
3 license authorizing the practice of respiratory care to an
4 applicant who:

5 (1) has applied in writing on the prescribed form and
6 has paid the required fee;

7 (2) has successfully completed a respiratory care
8 training program approved by the Department;

9 (3) has successfully passed an examination for the
10 practice of respiratory care authorized by the Department,
11 within 5 years of making application; and

12 (4) has paid the fees required by this Act.

13 Any person who has received certification by any state or
14 national organization whose standards are accepted by the
15 Department as being substantially similar to the standards in
16 this Act may apply for a respiratory care practitioner license
17 without examination.

18 (b) Beginning 6 months after December 31, 2005, all
19 individuals who provide satisfactory evidence to the
20 Department of 3 years of experience, with a minimum of 400
21 hours per year, in the practice of respiratory care during the
22 5 years immediately preceding December 31, 2005 shall be issued
23 a license, unless the license may be denied under Section 95 of
24 this Act. This experience must have been obtained while under
25 the supervision of a certified respiratory therapist, a
26 registered respiratory therapist, or a licensed registered
27 nurse or under the supervision or direction of a licensed
28 health care professional. All applications for a license under
29 this subsection (b) shall be postmarked within 12 months after
30 December 31, 2005. ~~All individuals who, on the effective date~~
31 ~~of this Act, provide satisfactory evidence to the Department of~~
32 ~~3 years experience in the practice of respiratory care during~~
33 ~~the 5 years immediately preceding the effective date of this~~
34 ~~Act shall be issued a license. To qualify for a license under~~
35 ~~subsection (b), all applications for a license under this~~
36 ~~subsection (b) shall be filed within 24 months after the~~

1 ~~effective date of this Act.~~

2 (c) A person may practice as a respiratory care
3 practitioner if he or she has applied in writing to the
4 Department in form and substance satisfactory to the Department
5 for a license as a licensed respiratory care practitioner and
6 has complied with all the provisions under this Section except
7 for the passing of an examination to be eligible to receive
8 such license, until the Department has made the decision that
9 the applicant has failed to pass the next available examination
10 authorized by the Department or has failed, without an approved
11 excuse, to take the next available examination authorized by
12 the Department or until the withdrawal of the application, but
13 not to exceed 6 months. An applicant practicing professional
14 registered respiratory care under this subsection (c) who
15 passes the examination, however, may continue to practice under
16 this subsection (c) until such time as he or she receives his
17 or her license to practice or until the Department notifies him
18 or her that the license has been denied. No applicant for
19 licensure practicing under the provisions of this subsection
20 (c) shall practice professional respiratory care except under
21 the direct supervision of a licensed health care professional
22 or authorized licensed personnel. In no instance shall any such
23 applicant practice or be employed in any supervisory capacity.

24 (Source: P.A. 89-33, eff. 1-1-96.)

25 (225 ILCS 106/95)

26 (Section scheduled to be repealed on January 1, 2006)

27 Sec. 95. Grounds for discipline.

28 (a) The Department may refuse to issue, renew, or may
29 revoke, suspend, place on probation, reprimand, or take other
30 disciplinary action as the Department considers appropriate,
31 including the issuance of fines not to exceed \$5,000 for each
32 violation, with regard to any license for any one or more of
33 the following:

34 (1) Material misstatement in furnishing information to
35 the Department or to any other State or federal agency.

1 (2) Violations of this Act, or any of its rules.

2 (3) Conviction of any crime under the laws of the
3 United States or any state or territory thereof that is a
4 felony or a misdemeanor, an essential element of which is
5 dishonesty, or of any crime that is directly related to the
6 practice of the profession.

7 (4) Making any misrepresentation for the purpose of
8 obtaining a license.

9 (5) Professional incompetence or negligence in the
10 rendering of respiratory care services.

11 (6) Malpractice.

12 (7) Aiding or assisting another person in violating any
13 rules or provisions of this Act.

14 (8) Failing to provide information within 60 days in
15 response to a written request made by the Department.

16 (9) Engaging in dishonorable, unethical, or
17 unprofessional conduct of a character likely to deceive,
18 defraud, or harm the public.

19 (10) Violating the rules of professional conduct
20 adopted by the Department.

21 (11) Discipline by another jurisdiction, if at least
22 one of the grounds for the discipline is the same or
23 substantially equivalent to those set forth in this Act.

24 (12) Directly or indirectly giving to or receiving from
25 any person, firm, corporation, partnership, or association
26 any fee, commission, rebate, or other form of compensation
27 for any professional services not actually rendered.

28 (13) A finding by the Department that the licensee,
29 after having the license placed on probationary status, has
30 violated the terms of the probation.

31 (14) Abandonment of a patient.

32 (15) Willfully filing false reports relating to a
33 licensee's practice including, but not limited to, false
34 records filed with a federal or State agency or department.

35 (16) Willfully failing to report an instance of
36 suspected child abuse or neglect as required by the Abused

1 and Neglected Child Reporting Act.

2 (17) Providing respiratory care, other than pursuant
3 to an order ~~the prescription of a licensed physician~~.

4 (18) Physical or mental disability including, but not
5 limited to, deterioration through the aging process or loss
6 of motor skills that results in the inability to practice
7 the profession with reasonable judgment, skill, or safety.

8 (19) Solicitation of professional services by using
9 false or misleading advertising.

10 (20) Failure to file a tax return, or to pay the tax,
11 penalty, or interest shown in a filed return, or to pay any
12 final assessment of tax penalty, or interest, as required
13 by any tax Act administered by the Illinois Department of
14 Revenue or any successor agency or the Internal Revenue
15 Service or any successor agency.

16 (21) Irregularities in billing a third party for
17 services rendered or in reporting charges for services not
18 rendered.

19 (22) Being named as a perpetrator in an indicated
20 report by the Department of Children and Family Services
21 under the Abused and Neglected Child Reporting Act, and
22 upon proof by clear and convincing evidence that the
23 licensee has caused a child to be an abused child or
24 neglected child as defined in the Abused and Neglected
25 Child Reporting Act.

26 (23) Habitual or excessive use or addiction to alcohol,
27 narcotics, stimulants, or any other chemical agent or drug
28 that results in an inability to practice with reasonable
29 skill, judgment, or safety.

30 (24) Being named as a perpetrator in an indicated
31 report by the Department on Aging under the Elder Abuse and
32 Neglect Act, and upon proof by clear and convincing
33 evidence that the licensee has caused an elderly person to
34 be abused or neglected as defined in the Elder Abuse and
35 Neglect Act.

36 (25) Willfully failing to report an instance of

1 suspected elder abuse or neglect as required by the Elder
2 Abuse and Neglect Act.

3 (b) The determination by a court that a licensee is subject
4 to involuntary admission or judicial admission as provided in
5 the Mental Health and Developmental Disabilities Code will
6 result in an automatic suspension of his or her license. The
7 suspension will end upon a finding by a court that the licensee
8 is no longer subject to involuntary admission or judicial
9 admission, the issuance of an order so finding and discharging
10 the patient, and the recommendation of the Board to the
11 Director that the licensee be allowed to resume his or her
12 practice.

13 (Source: P.A. 90-655, eff. 7-30-98; 91-259, eff. 1-1-00.)

14 (225 ILCS 106/55 rep.)

15 Section 15. The Respiratory Care Practice Act is amended by
16 repealing Section 55.

17 Section 99. Effective date. This Act takes effect January
18 1, 2006.