



Rep. Michael J. Zalewski

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LRB099 04331 AMC 32558 a

1 AMENDMENT TO HOUSE BILL 408

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 408 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Regulatory Sunset Act is amended by  
5 changing Section 4.26 and by adding Section 4.36 as follows:

6 (5 ILCS 80/4.26)

7 Sec. 4.26. Acts repealed on January 1, 2016. The following  
8 Acts are repealed on January 1, 2016:

9 The Illinois Athletic Trainers Practice Act.

10 The Illinois Roofing Industry Licensing Act.

11 The Illinois Dental Practice Act.

12 The Collection Agency Act.

13 The Barber, Cosmetology, Esthetics, Hair Braiding, and  
14 Nail Technology Act of 1985.

15 ~~The Respiratory Care Practice Act.~~

16 The Hearing Instrument Consumer Protection Act.

1 The Illinois Physical Therapy Act.

2 The Professional Geologist Licensing Act.

3 (Source: P.A. 95-331, eff. 8-21-07; 95-876, eff. 8-21-08;  
4 96-1246, eff. 1-1-11.)

5 (5 ILCS 80/4.36 new)

6 Sec. 4.36. Act repealed on January 1, 2026. The following  
7 Act is repealed on January 1, 2026:

8 The Respiratory Care Practice Act.

9 Section 10. The Respiratory Care Practice Act is amended by  
10 changing Sections 10, 15, 20, 30, 35, 40, 45, 65, 80, 95, 100,  
11 105, 110, 115, 125, 130, 135, 140, 145, 150, 160, 170, and 180  
12 and by adding Sections 22, 190, and 195 as follows:

13 (225 ILCS 106/10)

14 (Section scheduled to be repealed on January 1, 2016)

15 Sec. 10. Definitions. In this Act:

16 "Address of record" means the designated address recorded  
17 by the Department in the applicant's or licensee's application  
18 file or license file as maintained by the Department's  
19 licensure maintenance unit. It is the duty of the applicant or  
20 licensee to inform the Department of any change of address and  
21 those changes must be made either through the Department's  
22 website or by contacting the Department.

23 "Advanced practice nurse" means an advanced practice nurse

1 licensed under the Nurse Practice Act.

2 "Board" means the Respiratory Care Board appointed by the  
3 Secretary ~~Director~~.

4 "Basic respiratory care activities" means and includes all  
5 of the following activities:

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

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

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

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

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

26 (6) Maintaining a patient's natural airway by

1 physically manipulating the jaw and neck, suctioning the  
2 oral cavity, or suctioning the mouth or nose with a bulb  
3 syringe.

4 (7) Performing assisted ventilation during emergency  
5 resuscitation using a manual resuscitator.

6 (8) Using a manual resuscitator at the direction of a  
7 licensed health care professional or other authorized  
8 licensed personnel who is present and performing routine  
9 airway suctioning. These activities do not include care of  
10 a patient's artificial airway or the adjustment of  
11 mechanical ventilator settings while a patient is  
12 connected to the ventilator.

13 "Basic respiratory care activities" does not mean activities  
14 that involve any of the following:

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

17 (2) An unreasonable risk of a negative outcome for the  
18 patient.

19 (3) The assessment or making of a decision concerning  
20 patient care.

21 (4) The administration of aerosol medication or  
22 medical gas ~~oxygen~~.

23 (5) The insertion and maintenance of an artificial  
24 airway.

25 (6) Mechanical ventilatory support.

26 (7) Patient assessment.

1 (8) Patient education.

2 (9) The transferring of oxygen devices, for purposes of  
3 patient transport, with a liter flow greater than 6 liters  
4 per minute, and the transferring of oxygen devices at any  
5 liter flow being delivered to patients less than 12 years  
6 of age.

7 "Department" means the Department of Financial and  
8 Professional Regulation.

9 ~~"Director" means the Director of Professional Regulation.~~

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

12 "Licensed health care professional" means a physician  
13 licensed to practice medicine in all its branches, a certified  
14 registered nurse anesthetist, an advanced practice nurse who  
15 has a written collaborative agreement with a collaborating  
16 physician that authorizes the advanced practice nurse to  
17 transmit orders to a respiratory care practitioner, or a  
18 physician assistant who has been delegated the authority to  
19 transmit orders to a respiratory care practitioner by his or  
20 her supervising physician.

21 "Order" means a written, oral, or telecommunicated  
22 authorization for respiratory care services for a patient by  
23 (i) a licensed health care professional who maintains medical  
24 supervision of the patient and makes a diagnosis or verifies  
25 that the patient's condition is such that it may be treated by  
26 a respiratory care practitioner or (ii) a certified registered

1 nurse anesthetist in a licensed hospital or ambulatory surgical  
2 treatment center.

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

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

12 "Respiratory care" and "cardiorespiratory care" mean  
13 preventative services, evaluation and assessment services,  
14 therapeutic services, cardiopulmonary disease management, and  
15 rehabilitative services under the order of a licensed health  
16 care professional ~~or a certified registered nurse anesthetist~~  
17 ~~in a licensed hospital~~ for an individual with a disorder,  
18 disease, or abnormality of the cardiopulmonary system. These  
19 terms include, but are not limited to, measuring, observing,  
20 assessing, and monitoring signs and symptoms, reactions,  
21 general behavior, and general physical response of individuals  
22 to respiratory care services, including the determination of  
23 whether those signs, symptoms, reactions, behaviors, or  
24 general physical responses exhibit abnormal characteristics;  
25 the administration of pharmacological and therapeutic agents  
26 and procedures related to respiratory care services; the

1 collection of blood specimens and other bodily fluids and  
2 tissues for, and the performance of, cardiopulmonary  
3 diagnostic testing procedures, including, but not limited to,  
4 blood gas analysis; development, implementation, and  
5 modification of respiratory care treatment plans based on  
6 assessed abnormalities of the cardiopulmonary system,  
7 respiratory care guidelines, referrals, and orders of a  
8 licensed health care professional; application, operation, and  
9 management of mechanical ventilatory support and other means of  
10 life support, including, but not limited to, hemodynamic  
11 cardiovascular support; and the initiation of emergency  
12 procedures under the rules promulgated by the Department. A  
13 respiratory care practitioner shall refer to a physician  
14 licensed to practice medicine in all its branches any patient  
15 whose condition, at the time of evaluation or treatment, is  
16 determined to be beyond the scope of practice of the  
17 respiratory care practitioner.

18 "Respiratory care education program" means a course of  
19 academic study leading to eligibility for registry or  
20 certification in respiratory care. The training is to be  
21 approved by an accrediting agency recognized by the Board and  
22 shall include an evaluation of competence through a  
23 standardized testing mechanism that is determined by the Board  
24 to be both valid and reliable.

25 "Respiratory care practitioner" means a person who is  
26 licensed by the Department of Professional Regulation and meets

1 all of the following criteria:

2 (1) The person is engaged in the practice of  
3 cardiorespiratory care and has the knowledge and skill  
4 necessary to administer respiratory care.

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

10 (3) The person is able to function in situations of  
11 unsupervised patient contact requiring great individual  
12 judgment.

13 "Secretary" means the Secretary of Financial and  
14 Professional Regulation.

15 (Source: P.A. 94-523, eff. 1-1-06; 95-639, eff. 10-5-07.)

16 (225 ILCS 106/15)

17 (Section scheduled to be repealed on January 1, 2016)

18 Sec. 15. Exemptions.

19 (a) This Act does not prohibit a person legally regulated  
20 in this State by any other Act from engaging in any practice  
21 for which he or she is authorized.

22 (b) Nothing in this Act shall prohibit the practice of  
23 respiratory care by a person who is employed by the United  
24 States government or any bureau, division, or agency thereof  
25 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, a  
16 licensed practical nurse, a physician assistant, or a physician  
17 licensed to practice medicine in all its branches from  
18 providing respiratory care.

19 (f) Nothing in this Act shall limit a person who is  
20 credentialed by the National Society for Cardiopulmonary  
21 Technology or the National Board for Respiratory Care from  
22 performing pulmonary function tests and respiratory care  
23 procedures related to the pulmonary function test. Individuals  
24 who do not possess a license to practice respiratory care or a  
25 license in another health care field may perform basic  
26 screening spirometry limited to peak flow, forced vital

1 capacity, slow vital capacity, and maximum voluntary  
2 ventilation if they possess spirometry certification from the  
3 National Institute for Occupational Safety and Health, an  
4 Office Spirometry Certificate from the American Association  
5 for Respiratory Care, or other similarly accepted  
6 certification training.

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

10 (h) Nothing in this Act shall prohibit a polysomnographic  
11 technologist, technician, or trainee, as defined in the job  
12 descriptions jointly accepted by the American Academy of Sleep  
13 Medicine, the Association of Polysomnographic Technologists,  
14 the Board of Registered Polysomnographic Technologists, and  
15 the American Society of Electroneurodiagnostic Technologists,  
16 from performing activities within the scope of practice of  
17 polysomnographic technology while under the direction of a  
18 physician licensed in this State.

19 (i) Nothing in this Act shall prohibit a family member from  
20 providing respiratory care services to an ill person.

21 (j) Nothing in this Act shall be construed to limit an  
22 unlicensed practitioner in a licensed hospital who is working  
23 under the proximate supervision of a licensed health care  
24 professional or other authorized licensed personnel and  
25 providing direct patient care services from performing basic  
26 respiratory care activities if the unlicensed practitioner (i)

1 has been trained to perform the basic respiratory care  
2 activities at the facility that employs or contracts with the  
3 individual and (ii) at a minimum, has annually received an  
4 evaluation of the unlicensed practitioner's performance of  
5 basic respiratory care activities documented by the facility.

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

14 (l) Nothing in this Act prohibits a person licensed as a  
15 respiratory care practitioner in another jurisdiction from  
16 providing respiratory care: (i) in a declared emergency in this  
17 State; (ii) as a member of an organ procurement team; or (iii)  
18 as part of a medical transport team that is transporting a  
19 patient into or out of this State.

20 (Source: P.A. 96-456, eff. 8-14-09.)

21 (225 ILCS 106/20)

22 (Section scheduled to be repealed on January 1, 2016)

23 Sec. 20. Restrictions and limitations.

24 (a) No person shall, without a valid license as a  
25 respiratory care practitioner (i) hold himself or herself out

1 to the public as a respiratory care practitioner; (ii) use the  
2 title "respiratory care practitioner"; or (iii) perform or  
3 offer to perform the duties of a respiratory care practitioner,  
4 except as provided in Section 15 of this Act.

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

9 (Source: P.A. 94-523, eff. 1-1-06.)

10 (225 ILCS 106/22 new)

11 Sec. 22. Durable medical equipment use and training.

12 (a) Notwithstanding any other provision of this Act,  
13 unlicensed or non-credentialed individuals who deliver  
14 prescribed respiratory care equipment, including, but not  
15 limited to, oxygen, oxygen concentrators, pulmonary hygiene  
16 devices, aerosol compressors and generators, suction machines,  
17 and positive airway pressure devices, may deliver, set up,  
18 calibrate, and demonstrate the mechanical operation of a  
19 specific piece of equipment to the patient, family, and  
20 caregivers, with the exception of mechanical ventilators,  
21 which only a licensed respiratory care practitioner or other  
22 licensed health care professional operating within the scope of  
23 his or her scope of practice may deliver and set up.  
24 Demonstration of the mechanical operation of a specific piece  
25 of equipment includes demonstration of the on-off switches,

1 emergency buttons, and alarm silence and reset buttons, as  
2 appropriate. In order for unlicensed or non-credentialed  
3 personnel to deliver, set up, calibrate, and demonstrate a  
4 specific piece of equipment as allowed in this subsection (a),  
5 the employer must document that the employee has both received  
6 training and demonstrated competency using the specific piece  
7 of equipment under the supervision of a respiratory care  
8 practitioner licensed by this State or some other licensed  
9 practitioner operating within his or her scope of practice.

10 Equipment demonstration is not to be interpreted as  
11 teaching, administration, or performance of respiratory care.  
12 Unlicensed or non-credentialed individuals may not attach the  
13 equipment to the patient or instruct the patient, family, or  
14 caregiver on the use of the equipment beyond the mechanical  
15 functions of the device.

16 (b) Patients, family, and caregivers must be taught to use  
17 the equipment for the intended clinical application by a  
18 licensed respiratory care practitioner or other licensed  
19 health care professional operating within his or her scope of  
20 practice. This instruction may occur through follow-up after  
21 delivery, with an identical model in the health care facility  
22 prior to discharge or with an identical model at the medical  
23 supply office. Instructions to the patient regarding the  
24 clinical use of equipment, patient monitoring, patient  
25 assessment, or any other procedure used with the intent of  
26 evaluating the effectiveness of the treatment must be performed

1 by a respiratory care practitioner licensed by this State or  
2 any other licensed practitioner operating within his or her  
3 scope of practice.

4 (225 ILCS 106/30)

5 (Section scheduled to be repealed on January 1, 2016)

6 Sec. 30. Powers and duties of the Department. Subject to  
7 the provision of this Act, the Department may:

8 (a) Authorize examinations to ascertain the qualifications  
9 and fitness of an applicant for licensure as a respiratory care  
10 practitioner.

11 (b) Pass upon the qualifications of an applicant for  
12 licensure by endorsement.

13 (c) Conduct hearings on proceedings to refuse to issue,  
14 renew, or revoke a license or to suspend, place on probation,  
15 or reprimand a license issued or applied for ~~person licensed~~  
16 under this Act.

17 (d) Formulate rules required for the administration of this  
18 Act. Notice of proposed rulemaking shall be transmitted to the  
19 Board, and the Department shall review the Board's response and  
20 any recommendations made in the response.

21 (e) Solicit the advice and expert knowledge of the Board on  
22 any matter relating to the administration and enforcement of  
23 this Act.

24 (f) (Blank). ~~Issue a quarterly report to the Board of the~~  
25 ~~status of all complaints related to licensed practitioners~~

1 ~~received by the Department.~~

2 (g) Maintain a roster of the names and addresses of all  
3 licenses and all persons whose licenses have been suspended,  
4 revoked, or denied renewal for cause within the previous  
5 calendar year. The roster shall be available upon written  
6 request and payment of the required fee.

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

8 (225 ILCS 106/35)

9 (Section scheduled to be repealed on January 1, 2016)

10 Sec. 35. Respiratory Care Board.

11 (a) The Secretary ~~Director~~ shall appoint a Respiratory Care  
12 Board which shall serve in an advisory capacity to the  
13 Secretary ~~Director~~. The Board shall consist of 7 ~~9~~ persons of  
14 which 4 members shall be currently engaged in the practice of  
15 respiratory care with a minimum of 3 years practice in the  
16 State of Illinois, one member ~~3 members~~ shall be a qualified  
17 medical director ~~directors~~, and 2 members shall be hospital  
18 administrators.

19 (b) Members shall be appointed to a 4-year ~~3-year~~ term,  
20 ~~except, initial appointees shall serve the following terms: 3~~  
21 ~~members shall serve for one year, 3 members shall serve for 2~~  
22 ~~years, and 3 members shall serve for 3 years.~~ A member whose  
23 term has expired shall continue to serve until his or her  
24 successor is appointed and qualified. No member shall be  
25 reappointed to the Board for a term that would cause his or her

1 continuous service on the Board to be longer than 10 & years.  
2 Appointments to fill vacancies shall be made in the same manner  
3 as original appointments for the unexpired portion of the  
4 vacated term. ~~Initial terms shall begin upon the effective date~~  
5 ~~of this Act.~~

6 (c) The membership of the Board shall reasonably represent  
7 all the geographic areas in this State. The Secretary ~~Director~~  
8 shall consider the recommendations of the organization  
9 representing the largest number of respiratory care  
10 practitioners for appointment of the respiratory care  
11 practitioner members of the Board and the organization  
12 representing the largest number of physicians licensed to  
13 practice medicine in all its branches for the appointment of  
14 the medical director ~~directors~~ to the Board ~~board~~.

15 (d) The Secretary ~~Director~~ has the authority to remove any  
16 member of the Board for cause at any time before the expiration  
17 of his or her term. The Secretary shall be the sole arbiter of  
18 cause. ~~from office for neglect of any duty required by law, for~~  
19 ~~incompetence, or for unprofessional or dishonorable conduct.~~

20 (e) The Secretary ~~Director~~ shall consider the  
21 recommendations of the Board on questions involving standards  
22 of professional conduct, discipline, and qualifications of  
23 candidates for licensure under this Act.

24 (f) The members of the Board shall be reimbursed for all  
25 legitimate and necessary expenses incurred in attending  
26 meetings of the Board.

1       (g) Four members of the Board shall constitute a quorum. A  
2       vacancy in the membership of the Board shall not impair the  
3       right of a quorum to exercise all of the rights and perform all  
4       of the duties of the Board.

5       (h) Members of the Board shall be immune from suit in any  
6       action based upon any disciplinary proceedings or other  
7       activities performed in good faith as members of the Board.

8       (Source: P.A. 94-523, eff. 1-1-06.)

9           (225 ILCS 106/40)

10          (Section scheduled to be repealed on January 1, 2016)

11          Sec. 40. Application for original license. Applications  
12          for original license shall be made to the Department on forms  
13          prescribed by the Department and accompanied by the appropriate  
14          documentation and the required fee, which is not refundable.  
15          All applications shall contain information that, in the  
16          judgment ~~judgement~~ of the Department, will enable the  
17          Department to pass on the qualifications of the applicant for a  
18          license as a respiratory care practitioner.

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

20           (225 ILCS 106/45)

21          (Section scheduled to be repealed on January 1, 2016)

22          Sec. 45. Examination; failure or refusal to take  
23          examination.

24          (a) The Department shall authorize examinations of

1 applicants as respiratory care practitioners at the times and  
2 places as it may determine. The examination shall test an  
3 applicant's ~~the~~ competence and qualifications ~~of the applicant~~  
4 to practice respiratory care.

5 (b) Applicants for examination shall pay, either to the  
6 Department or to the designated testing service, a fee covering  
7 the cost of providing the examination. Failure to appear for  
8 the examination on the scheduled date, at the time and place  
9 specified, after the application for examination has been  
10 received and acknowledged by the Department or the designated  
11 testing service shall result in the forfeiture of the  
12 examination fee.

13 (c) If an applicant neglects, fails, or refuses to take an  
14 examination, or fails to pass an examination for a license  
15 under this Act within 3 years after filing an application, the  
16 application shall be denied and the fee forfeited. However, the  
17 applicant may thereafter submit a new application accompanied  
18 by the required fee. The applicant shall meet the requirements  
19 in force at the time of making the new application.

20 (d) The Department may employ consultants for the purpose  
21 of preparing and conducting examinations.

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

23 (225 ILCS 106/65)

24 (Section scheduled to be repealed on January 1, 2016)

25 Sec. 65. Licenses; renewal; restoration; inactive status.

1 (a) The expiration date and renewal period for each license  
2 issued under this Act shall be set by rule. The licensee may  
3 renew a license during the 30 day period preceding its  
4 expiration date by paying the required fee and demonstrating  
5 compliance with any continuing education requirements.

6 (b) A person who has permitted a license to expire or who  
7 has a license on inactive status may have it restored by  
8 submitting an application to the Department and filing proof of  
9 fitness, as defined by rule, to have the license restored,  
10 including, if appropriate, evidence that is satisfactory to the  
11 Department certifying the active practice of respiratory care  
12 in another jurisdiction and by paying the required fee.

13 A person practicing on an expired license is considered to  
14 be practicing without a license.

15 (c) If the person has not maintained an active practice  
16 that is satisfactory to the Department in another jurisdiction,  
17 the Department shall determine the person's fitness to resume  
18 active status. The Department may require the person to  
19 complete a specified period of evaluated respiratory care and  
20 may require successful completion of an examination.

21 (d) A person whose license expired while he or she was (1)  
22 in federal service on active duty with the Armed Forces ~~armed~~  
23 ~~forces~~ of the United States or ~~, while~~ called into service or  
24 training with the State Militia, or (2) while ~~while~~ in training or  
25 education under the supervision of the United States government  
26 preliminary to ~~before~~ induction into ~~the~~ military service may

1 have his or her license restored without paying any lapsed  
2 renewal fees ~~a renewal fee~~ if, within 2 years after the  
3 termination of his or her service, training, or education,  
4 except under conditions other than honorable, the Department is  
5 furnished with satisfactory evidence that the person has been  
6 so engaged and that the service, training, or education has  
7 been terminated.

8 (e) A license to practice shall not be denied any applicant  
9 because of the applicant's race, religion, creed, national  
10 origin, political beliefs, or activities, age, sex, sexual  
11 orientation, or physical impairment.

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

13 (225 ILCS 106/80)

14 (Section scheduled to be repealed on January 1, 2016)

15 Sec. 80. Returned checks; fines. Any person who delivers a  
16 check or other payment to the Department that is returned to  
17 the Department unpaid by the financial institution upon which  
18 it is drawn shall pay to the Department, in addition to the  
19 amount already owed to the Department, a fine of \$50. The fines  
20 imposed by this Section are in addition to any other discipline  
21 provided under this Act for unlicensed practice or practice on  
22 a nonrenewed license. The Department shall notify the person  
23 that payment of fees and fines shall be paid to the Department  
24 by certified check or money order within 30 calendar days of  
25 the notification. If, after the expiration of 30 days from the

1 date of the notification, the person has failed to submit the  
2 necessary remittance, the Department shall automatically  
3 terminate the license or certificate or deny the application,  
4 without hearing. If, after termination or denial, the person  
5 seeks a license or certificate, he or she shall apply to the  
6 Department for restoration or issuance of the license or  
7 certificate and pay all fees and fines due to the Department.  
8 The Department may establish a fee for the processing of an  
9 application for restoration of a license or certificate to pay  
10 all expenses of processing this application. The Secretary  
11 ~~Director~~ may waive the fines due under this Section in  
12 individual cases where the Secretary ~~Director~~ finds that the  
13 fines would be unreasonable or unnecessarily burdensome.

14 (Source: P.A. 92-146, eff. 1-1-02.)

15 (225 ILCS 106/95)

16 (Section scheduled to be repealed on January 1, 2016)

17 Sec. 95. Grounds for discipline.

18 (a) The Department may refuse to issue, renew, or may  
19 revoke, suspend, place on probation, reprimand, or take other  
20 disciplinary or non-disciplinary action as the Department  
21 considers appropriate, including the issuance of fines not to  
22 exceed \$10,000 ~~\$5,000~~ for each violation, with regard to any  
23 license for any one or combination ~~more~~ of the following:

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

1           (2) Violations of this Act, or any of the ~~its~~ rules  
2           adopted under this Act.

3           (3) Conviction by plea of guilty or nolo contendere,  
4           finding of guilt, jury verdict, or entry of judgment or by  
5           sentencing of any crime, including, but not limited to,  
6           convictions preceding sentences of supervision,  
7           conditional discharge, or first offender probation, under  
8           the laws of any jurisdiction of the United States or any  
9           state or territory thereof: (i) that is a felony or (ii)  
10          that is ~~or~~ a misdemeanor, an essential element of which is  
11          dishonesty, or ~~of any crime~~ that is directly related to the  
12          practice of the profession.

13          (4) Making any misrepresentation for the purpose of  
14          obtaining a license.

15          (5) Professional incompetence or negligence in the  
16          rendering of respiratory care services.

17          (6) Malpractice.

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

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

22          (9) Engaging in dishonorable, unethical, or  
23          unprofessional conduct of a character likely to deceive,  
24          defraud, or harm the public.

25          (10) Violating the rules of professional conduct  
26          adopted by the Department.

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

4           (12) Directly or indirectly giving to or receiving from  
5 any person, firm, corporation, partnership, or association  
6 any fee, commission, rebate, or other form of compensation  
7 for any professional services not actually rendered.  
8 Nothing in this paragraph (12) affects any bona fide  
9 independent contractor or employment arrangements among  
10 health care professionals, health facilities, health care  
11 providers, or other entities, except as otherwise  
12 prohibited by law. Any employment arrangements may include  
13 provisions for compensation, health insurance, pension, or  
14 other employment benefits for the provision of services  
15 within the scope of the licensee's practice under this Act.  
16 Nothing in this paragraph (12) shall be construed to  
17 require an employment arrangement to receive professional  
18 fees for services rendered.

19           (13) A finding that the licensee, after having her or  
20 his license placed on probationary status or subject to  
21 conditions or restrictions, has violated the terms of  
22 probation or failed to comply with such terms or conditions  
23 ~~A finding by the Department that the licensee, after having~~  
24 ~~the license placed on probationary status, has violated the~~  
25 ~~terms of the probation.~~

26           (14) Abandonment of a patient.

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

5           (16) Willfully failing to report an instance of  
6 suspected child abuse or neglect as required by the Abused  
7 and Neglected Child Reporting Act.

8           (17) Providing respiratory care, other than pursuant  
9 to an order.

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

14          (19) Solicitation of professional services by using  
15 false or misleading advertising.

16          (20) Failure to file a tax return, or to pay the tax,  
17 penalty, or interest shown in a filed return, or to pay any  
18 final assessment of tax penalty, or interest, as required  
19 by any tax Act administered by the Illinois Department of  
20 Revenue or any successor agency or the Internal Revenue  
21 Service or any successor agency.

22          (21) Irregularities in billing a third party for  
23 services rendered or in reporting charges for services not  
24 rendered.

25          (22) Being named as a perpetrator in an indicated  
26 report by the Department of Children and Family Services

1 under the Abused and Neglected Child Reporting Act, and  
2 upon proof by clear and convincing evidence that the  
3 licensee has caused a child to be an abused child or  
4 neglected child as defined in the Abused and Neglected  
5 Child Reporting Act.

6 (23) Habitual or excessive use or addiction to alcohol,  
7 narcotics, stimulants, or any other chemical agent or drug  
8 that results in an inability to practice with reasonable  
9 skill, judgment, or safety.

10 (24) Being named as a perpetrator in an indicated  
11 report by the Department on Aging under the Adult  
12 Protective Services Act, and upon proof by clear and  
13 convincing evidence that the licensee has caused an adult  
14 with disabilities or an older adult to be abused or  
15 neglected as defined in the Adult Protective Services Act.

16 (25) Willfully failing to report an instance of  
17 suspected abuse, neglect, financial exploitation, or  
18 self-neglect of an adult with disabilities or an older  
19 adult as required by the Adult Protective Services Act.

20 (26) Willful omission to file or record, or willfully  
21 impeding the filing or recording, or inducing another  
22 person to omit to file or record medical reports as  
23 required by law or willfully failing to report an instance  
24 of suspected child abuse or neglect as required by the  
25 Abused and Neglected Child Reporting Act.

26 (27) Practicing under a false or assumed name, except

1        as provided by law.

2            (28) Willfully or negligently violating the  
3        confidentiality between licensee and patient, except as  
4        required by law.

5            (29) The use of any false, fraudulent, or deceptive  
6        statement in any document connected with the licensee's  
7        practice.

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

18            All fines imposed under this Section shall be paid within  
19        60 days after the effective date of the order imposing the fine  
20        or in accordance with the terms set forth in the order imposing  
21        the fine.

22        (Source: P.A. 98-49, eff. 7-1-13.)

23            (225 ILCS 106/100)

24            (Section scheduled to be repealed on January 1, 2016)

25            Sec. 100. Violations; injunctions; cease and desist order.

1           (a) If a person violates any provision of this Act, the  
2 Secretary ~~Director~~ may, in the name of the People of the State  
3 of Illinois, through the Attorney General, petition for an  
4 order enjoining the violation or an order enforcing compliance  
5 with this Act. Upon the filling of a verified petition, the  
6 court with appropriate jurisdiction may issue a temporary  
7 restraining order without notice or bond and may preliminarily  
8 and permanently enjoin the violation. If it is established that  
9 the person has violated or is violating the injunction, the  
10 court may punish the offender for contempt of court.  
11 Proceedings under this Section are in addition to all other  
12 remedies and penalties provided by this Act.

13           (b) If a person holds himself or herself out as being a  
14 respiratory care practitioner under this Act and is not  
15 licensed to do so, then any licensed respiratory care  
16 practitioner, interested party, or injured person may petition  
17 for relief as provided in subsection (a) of this Section.

18           (c) Whenever, in the opinion of the Department, a person  
19 violates any provision of this Act, the Department may issue a  
20 rule to show cause why an order to cease and desist should not  
21 be entered against that person. The rule shall clearly set  
22 forth the grounds relied upon by the Department and shall allow  
23 at least 7 days from the date of the rule to file an answer  
24 satisfactory to the Department. Failure to answer to the  
25 satisfaction of the Department shall cause an order to cease  
26 and desist to be issued.

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

2 (225 ILCS 106/105)

3 (Section scheduled to be repealed on January 1, 2016)

4 Sec. 105. Investigations; notice; hearing. The Department  
5 may investigate the actions of an applicant, a licensee, or a  
6 person claiming to hold a license. The Department shall, before  
7 revoking, suspending, placing on probation, reprimanding, or  
8 taking any other disciplinary action under Section 95 of this  
9 Act, at least 30 days before the date set for the hearing (i)  
10 notify the accused, in writing, of any charges made and the  
11 time and place for the hearing on the charges, (ii) direct him  
12 or her to file a written answer to the charges with the Board  
13 under oath within 20 days after the service upon him or her of  
14 the notice, and (iii) inform the accused that, if he or she  
15 fails to answer, default will be taken against him or her and  
16 ~~or~~ his or her license ~~or certificate~~ may be suspended, revoked,  
17 placed on probationary status, or other disciplinary action  
18 taken with regard to the license, including limiting the scope,  
19 nature, or extent of his or her practice, without a hearing, as  
20 the Department may consider proper. In case the person, after  
21 receiving notice, fails to file an answer, his or her license  
22 may, in the discretion of the Department, be suspended,  
23 revoked, placed on probationary status, or the Department may  
24 take whatever disciplinary action is considered proper,  
25 including, limiting the scope, nature, or extent of the

1 person's practice or the imposition of a fine, without a  
2 hearing, if the act or acts charged constitute sufficient  
3 grounds for an action under this Act. The written notice may be  
4 served by personal delivery or certified mail to the address of  
5 record ~~specified by the accused in his or her last notification~~  
6 ~~to the Department.~~

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

8 (225 ILCS 106/110)

9 (Section scheduled to be repealed on January 1, 2016)

10 Sec. 110. Record of proceedings; transcript. The  
11 Department, at its expense, shall preserve the record of all  
12 proceedings at a formal hearing of any case. The notice of  
13 hearing, complaint, all other documents in the nature of  
14 pleadings and written motions filed in the proceedings, the  
15 transcript of testimony, the report of the Board and orders of  
16 the Department shall be in the record of the proceedings. ~~The~~  
17 ~~Department shall furnish a transcript of the record to any~~  
18 ~~person interested in the hearing upon payment of the fee~~  
19 ~~required under Section 2105-115 of the Department of~~  
20 ~~Professional Regulation Law (20 ILCS 2105/2105-115).~~

21 (Source: P.A. 91-239, eff. 1-1-00.)

22 (225 ILCS 106/115)

23 (Section scheduled to be repealed on January 1, 2016)

24 Sec. 115. Subpoena; depositions; oaths. The Department has

1 the power to subpoena and to bring before it any person,  
2 exhibit, book, document, record, file, or any other material  
3 and to take testimony either orally or by deposition, or both,  
4 with the same fees and mileage and in the same manner as  
5 proscribed in civil cases in the courts of this State.

6 The Secretary ~~Director~~, the designated hearing officer,  
7 and every member of the Board has the power to administer oaths  
8 to witnesses at any hearing which the Department is authorized  
9 to conduct, and any other oaths authorized in any Act  
10 administered by the Department.

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

12 (225 ILCS 106/125)

13 (Section scheduled to be repealed on January 1, 2016)

14 Sec. 125. Findings and recommendations. At the conclusion  
15 of the hearing, the Board shall present to the Secretary  
16 ~~Director~~ a written report of its findings of fact, conclusions  
17 of law, and recommendations. The report shall contain a finding  
18 of whether the licensee violated this Act or failed to comply  
19 with the conditions required in this Act. The Board shall  
20 specify the nature of the violation or failure to comply, and  
21 shall make its recommendations to the Secretary ~~Director~~.

22 The report of findings of fact, conclusions of law, and  
23 recommendations of the Board shall be the basis for the  
24 Department's order for refusal or for the granting of a license  
25 or for any other disciplinary action. If the Secretary ~~Director~~

1 disagrees with the recommendation of the Board, the Secretary  
2 ~~Director~~ may issue an order in contravention of the Board's  
3 recommendation. The Secretary ~~Director~~ shall provide a written  
4 report to the Board on any disagreement and shall specify the  
5 reasons for the action in the final order. The report of  
6 findings of fact is not admissible in evidence against the  
7 person in a criminal prosecution brought for violation of this  
8 Act, but the hearing and findings of fact are not a bar to a  
9 criminal prosecution brought for the violation of this Act.

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

11 (225 ILCS 106/130)

12 (Section scheduled to be repealed on January 1, 2016)

13 Sec. 130. Board; rehearing. In any case involving the  
14 refusal to issue or renew a registration, or the discipline of  
15 a registrant, a copy of the Board's report shall be served upon  
16 the respondent by the Department, either personally or as  
17 provided in this Act for the service of the notice of hearing.  
18 Within 20 calendar days after service of the notice, the  
19 respondent may present to the Department a motion in writing  
20 for a rehearing. The motion shall specify the particular  
21 grounds for rehearing. If no motion for rehearing is filed,  
22 then upon the expiration of the time specified for filing a  
23 motion (or, if a motion for rehearing is denied, then upon  
24 denial) the Secretary ~~Director~~ may enter an order in accordance  
25 with recommendation of the Board, except as provided in Section

1 135 ~~45~~. If the respondent orders from the reporting service,  
2 and pays for a transcript of the record within the time for  
3 filing a motion for rehearing, the 20 calendar day period  
4 within which a motion may be filed shall commence upon the  
5 delivery of the transcript to the respondent.

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

7 (225 ILCS 106/135)

8 (Section scheduled to be repealed on January 1, 2016)

9 Sec. 135. Secretary ~~Director~~; rehearing. Whenever the  
10 Secretary ~~Director~~ believes that substantial justice has not  
11 been done in the revocation, suspension, refusal to issue or  
12 renew a license, or any other ~~the~~ discipline of an applicant or  
13 a licensee, he or she may order a rehearing by the same or  
14 other hearing officers.

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

16 (225 ILCS 106/140)

17 (Section scheduled to be repealed on January 1, 2016)

18 Sec. 140. Appointment of a hearing officer. The Secretary  
19 ~~Director~~ has the authority to appoint an attorney, licensed to  
20 practice law in the State of Illinois, to serve as a hearing  
21 officer in any action for refusal to issue or renew a license  
22 or to discipline a licensee. The hearing officer has full  
23 authority to conduct the hearing. A ~~At least one~~ member or  
24 members of the Board may ~~shall~~ attend hearings ~~each hearing~~.

1 The hearing officer shall report his or her findings of fact,  
2 conclusions of law, and recommendations to the Board and to the  
3 Secretary ~~Director~~. The Board shall have 60 calendar days from  
4 receipt of the report to review it and to present its findings  
5 of fact, conclusions of law, and recommendations to the  
6 Secretary ~~Director~~. If the Board does not present its report  
7 within the 60 day period, the Secretary ~~Director~~ may issue an  
8 order based on the report of the hearing officer. If the  
9 Secretary ~~Director~~ disagrees with the recommendation of the  
10 Board or the hearing officer, the Secretary ~~Director~~ may issue  
11 an order in contravention of the recommendation.

12 The Secretary ~~Director~~ shall promptly provide notice ~~a~~  
13 ~~written explanation~~ to the Board of ~~on~~ any such disagreement.

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

15 (225 ILCS 106/145)

16 (Section scheduled to be repealed on January 1, 2016)

17 Sec. 145. Order or certified copy; prima facie proof. An  
18 order or a certified copy thereof, over the seal of the  
19 Department and purporting to be signed by the Secretary  
20 ~~Director~~, is prima facie proof that:

21 (1) the signature is the genuine signature of the Secretary  
22 ~~Director~~;

23 (2) the Secretary ~~Director~~ is duly appointed and qualified;  
24 and

25 (3) the Board and its ~~the~~ members ~~thereof~~ are qualified to

1 act.

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

3 (225 ILCS 106/150)

4 (Section scheduled to be repealed on January 1, 2016)

5 Sec. 150. Restoration of suspended or revoked license. At  
6 any time after the successful completion of a term of  
7 probation, suspension or revocation of any license, the  
8 Department may restore the license to the licensee upon the  
9 written recommendation of the Board, unless after an  
10 investigation and hearing the Board determines that  
11 restoration is not in the public interest.

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

13 (225 ILCS 106/160)

14 (Section scheduled to be repealed on January 1, 2016)

15 Sec. 160. Summary suspension of license. The Secretary  
16 ~~Director~~ may summarily suspend the license of a respiratory  
17 care practitioner without a hearing, simultaneously with the  
18 institution of proceedings for a hearing provided for in  
19 Section 105 of this Act, if the Secretary ~~Director~~ finds that  
20 evidence in his or her possession indicates that the  
21 continuation of practice by the respiratory care practitioner  
22 would constitute an imminent danger to the public. In the event  
23 that the Secretary ~~Director~~ summarily suspends the license of  
24 respiratory care practitioner ~~an individual~~ without a hearing,

1 a hearing must be commenced ~~held~~ within 30 calendar days after  
2 the suspension has occurred and concluded as expeditiously as  
3 practical.

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

5 (225 ILCS 106/170)

6 (Section scheduled to be repealed on January 1, 2016)

7 Sec. 170. Administrative review; certification  
8 ~~Certification~~ of record; costs.

9 All final administrative decisions of the Department are  
10 subject to judicial review pursuant to the Administrative  
11 Review Law and its rules. The term "administrative decision" is  
12 defined as in Section 3-101 of the Code of Civil Procedure.

13 Proceedings for judicial review shall be commenced in the  
14 circuit court of the county in which the party applying for  
15 review resides, but if the party is not a resident of this  
16 State, the venue shall be in Sangamon County.

17 The Department shall not be required to certify any record  
18 to the court, or file an answer in court, or otherwise appear  
19 in any court in a judicial review proceeding, unless and until  
20 the Department has received from the plaintiff payment of the  
21 costs of furnishing and certifying the record, which costs  
22 shall be determined by the Department ~~there is filed in the~~  
23 ~~court, with the complaint, a receipt from the Department~~  
24 ~~acknowledging payment of the costs of furnishing and certifying~~  
25 ~~the record.~~ Exhibits shall be certified without cost. Failure

1 on the part of the plaintiff to file a receipt is grounds for  
2 dismissal of the action. During the pendency and hearing of any  
3 and all judicial proceedings incident to the disciplinary  
4 action, the sanctions imposed upon the accused by the  
5 Department specified in the Department's final administrative  
6 decision shall, as a matter of public policy, remain in full  
7 force and effect in order to protect the public pending final  
8 resolution of any of the proceedings.

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

10 (225 ILCS 106/180)

11 (Section scheduled to be repealed on January 1, 2016)

12 Sec. 180. Illinois Administrative Procedure Act;  
13 application. The Illinois Administrative Procedure Act is  
14 hereby expressly adopted and incorporated in this Act as if all  
15 of the provisions of the Act were included in this Act, except  
16 that the provision of paragraph (d) of Section 10-65 of the  
17 Illinois Administrative Procedure Act, which provides that at  
18 hearings the registrant or licensee has the right to show  
19 compliance with all lawful requirements for retention or  
20 continuation or renewal of the license, is specifically  
21 excluded. For the purpose of this Act, the notice required  
22 under Section 10-25 of the Illinois Administrative Procedure  
23 Act is considered sufficient when mailed to address of record  
24 of the licensee or applicant..

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

1 (225 ILCS 106/190 new)

2 Sec. 190. Consent order. At any point in the proceedings as  
3 provided in Sections 90 through 105 and Section 125, both  
4 parties may agree to a negotiated consent order. The consent  
5 order shall be final upon signature of the Secretary.

6 (225 ILCS 106/195 new)

7 Sec. 195. Confidentiality. All information collected by  
8 the Department in the course of an examination or investigation  
9 of a licensee or applicant, including, but not limited to, any  
10 complaint against a licensee filed with the Department and  
11 information collected to investigate any such complaint, shall  
12 be maintained for the confidential use of the Department and  
13 shall not be disclosed. The Department shall not disclose the  
14 information to anyone other than law enforcement officials,  
15 regulatory agencies that have an appropriate regulatory  
16 interest as determined by the Secretary, or a party presenting  
17 a lawful subpoena to the Department. Information and documents  
18 disclosed to a federal, State, county, or local law enforcement  
19 agency shall not be disclosed by the agency for any purpose to  
20 any other agency or person. A formal complaint filed against a  
21 licensee by the Department or any order issued by the  
22 Department against a licensee or applicant shall be a public  
23 record, except as otherwise prohibited by law.

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.".