

AN ACT concerning professional regulation.

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

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

(5 ILCS 80/4.16)

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 Acts repealed January 1, 2006. The following Acts are repealed January 1, 2006:

~~The Respiratory Care Practice Act.~~

The Hearing Instrument Consumer Protection Act.

The Illinois Dental Practice Act.

The Professional Geologist Licensing Act.

The Illinois Athletic Trainers Practice Act.

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

The Collection Agency Act.

The Illinois Roofing Industry Licensing Act.

The Illinois Physical Therapy Act.

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

(5 ILCS 80/4.26 new)

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 Act repealed on January 1, 2016. The following Act is repealed on January 1, 2016:

The Respiratory Care Practice Act.

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

(225 ILCS 106/10)

(Section scheduled to be repealed on January 1, 2006)

Sec. 10. Definitions. In this Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) The administration of aerosol medication or oxygen.

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

(6) Mechanical ventilatory support.

(7) Patient assessment.

(8) Patient education.

"Department" means the Department of Professional Regulation.

"Director" means the Director of Professional Regulation.

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

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

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

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

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

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

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

management of mechanical ventilatory support and other means of life support; and the initiation of emergency procedures under the rules promulgated by the Department. A respiratory care practitioner shall refer to a physician licensed to practice medicine in all its branches any patient whose condition, at the time of evaluation or treatment, is determined to be beyond the scope of practice of the respiratory care practitioner.

~~include, but are not limited to, direct and indirect services in the implementation of treatment, management, disease prevention, diagnostic testing, monitoring, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system, including (i) a determination of whether such signs and symptoms, reactions, behavior, and general response exhibit abnormal characteristics and (ii) implementation of treatment based on the observed abnormalities, of appropriate reporting, referral, respiratory care protocols, or changes in treatment pursuant to the written, oral, or telephone transmitted orders of a licensed physician. "Respiratory care" includes the transcription and implementation of written, oral, and telephone transmitted orders by a licensed physician pertaining to the practice of respiratory care and the initiation of emergency procedures under rules promulgated by the Board or as otherwise permitted in this Act. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private dwelling, or other place considered appropriate by the Board in accordance with the written, oral, or telephone transmitted order of a physician and shall be performed under the direction of a licensed physician. "Respiratory care" includes inhalation and respiratory therapy.~~

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

to be both valid and reliable.

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

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

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

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

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

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

(225 ILCS 106/15)

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

Sec. 15. Exemptions.

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

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

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

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

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

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

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

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

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

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

(j) ~~Nothing in this Act shall be construed to limit an unlicensed practitioner in a licensed hospital who is working under the proximate supervision of a licensed health care professional or other authorized licensed personnel and providing direct patient care services from performing basic respiratory care activities if the unlicensed practitioner (i) has been trained to perform the basic respiratory care activities at the facility that employs or contracts with the individual and (ii) at a minimum, has annually received an evaluation of the unlicensed practitioner's performance of basic respiratory care activities documented by the facility. This Act does not prohibit a hospital, nursing home, long-term care facility, home health agency, health system or network, or any other organization or institution that provides health or illness care for individuals or communities from providing respiratory care through practitioners that the organization considers competent. These entities shall not be required to utilize licensed respiratory care practitioners to practice respiratory care when providing respiratory care for their patients or customers. Organizations providing respiratory care may decide who is competent to deliver that respiratory care. Nothing in this Act shall be construed to limit the ability of an employer to utilize a respiratory care~~

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

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

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

(225 ILCS 106/20)

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

Sec. 20. Restrictions and limitations.

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

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

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

(225 ILCS 106/35)

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

Sec. 35. Respiratory Care Board.

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

hospital administrators.

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

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

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

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

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

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

(225 ILCS 106/50)

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

Sec. 50. Qualifications for a license.

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

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

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

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

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

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

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

~~effective date of this Act.~~

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

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

(225 ILCS 106/95)

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

Sec. 95. Grounds for discipline.

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

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

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

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

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

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

(6) Malpractice.

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

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

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

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

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

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

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

(14) Abandonment of a patient.

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

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

and Neglected Child Reporting Act.

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

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

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

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

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

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

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

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

(25) Willfully failing to report an instance of

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

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

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

(225 ILCS 106/55 rep.)

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

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