

1 AN ACT concerning 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 4.26 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 Acts repealed on January 1, 2016.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8 Acts are repealed on January 1, 2016: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.

17 The Illinois Physical Therapy Act.

18 The Professional Geologist Licensing Act.

19 (Source: P.A. 95-331, eff. 8-21-07; 95-876, eff. 8-21-08;  
20 96-1246, eff. 1-1-11.)

21 (5 ILCS 80/4.36 new)

22 Sec. 4.36. Act repealed on January 1, 2026. The following

1 Act is repealed on January 1, 2026:

2 The Respiratory Care Practice Act.

3 Section 10. The Respiratory Care Practice Act is amended by  
4 changing Sections 10, 15, 20, 30, 35, 40, 45, 65, 80, 95, 100,  
5 105, 110, 115, 125, 130, 135, 140, 145, 150, 160, 170, and 180  
6 and by adding Sections 22, 190, and 195 as follows:

7 (225 ILCS 106/10)

8 (Section scheduled to be repealed on January 1, 2016)

9 Sec. 10. Definitions. In this Act:

10 "Address of record" means the designated address recorded  
11 by the Department in the applicant's or licensee's application  
12 file or license file as maintained by the Department's  
13 licensure maintenance unit. It is the duty of the applicant or  
14 licensee to inform the Department of any change of address and  
15 those changes must be made either through the Department's  
16 website or by contacting the Department.

17 "Advanced practice nurse" means an advanced practice nurse  
18 licensed under the Nurse Practice Act.

19 "Board" means the Respiratory Care Board appointed by the  
20 Secretary ~~Director~~.

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

23 (1) Cleaning, disinfecting, and sterilizing equipment  
24 used in the practice of respiratory care as delegated by a

1 licensed health care professional or other authorized  
2 licensed personnel.

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

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

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

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

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

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

25 (8) Using a manual resuscitator at the direction of a  
26 licensed health care professional or other authorized

1 licensed personnel who is present and performing routine  
2 airway suctioning. These activities do not include care of  
3 a patient's artificial airway or the adjustment of  
4 mechanical ventilator settings while a patient is  
5 connected to the ventilator.

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

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

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

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

14 (4) The administration of aerosol medication or  
15 medical gas oxygen.

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

18 (6) Mechanical ventilatory support.

19 (7) Patient assessment.

20 (8) Patient education.

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

26 "Department" means the Department of Financial and

1 Professional Regulation.

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

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

5 "Licensed health care professional" means a physician  
6 licensed to practice medicine in all its branches, a certified  
7 registered nurse anesthetist, an advanced practice nurse who  
8 has a written collaborative agreement with a collaborating  
9 physician that authorizes the advanced practice nurse to  
10 transmit orders to a respiratory care practitioner, or a  
11 physician assistant who has been delegated the authority to  
12 transmit orders to a respiratory care practitioner by his or  
13 her supervising physician.

14 "Order" means a written, oral, or telecommunicated  
15 authorization for respiratory care services for a patient by  
16 (i) a licensed health care professional who maintains medical  
17 supervision of the patient and makes a diagnosis or verifies  
18 that the patient's condition is such that it may be treated by  
19 a respiratory care practitioner or (ii) a certified registered  
20 nurse anesthetist in a licensed hospital or ambulatory surgical  
21 treatment center.

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

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

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

1 licensed health care professional; application, operation, and  
2 management of mechanical ventilatory support and other means of  
3 life support, including, but not limited to, hemodynamic  
4 cardiovascular support; and the initiation of emergency  
5 procedures under the rules promulgated by the Department. A  
6 respiratory care practitioner shall refer to a physician  
7 licensed to practice medicine in all its branches any patient  
8 whose condition, at the time of evaluation or treatment, is  
9 determined to be beyond the scope of practice of the  
10 respiratory care practitioner.

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

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

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

24 (2) The person is capable of serving as a resource to  
25 the licensed health care professional in relation to the  
26 technical aspects of cardiorespiratory care and the safe

1 and effective methods for administering cardiorespiratory  
2 care modalities.

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

6 "Secretary" means the Secretary of Financial and  
7 Professional Regulation.

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

9 (225 ILCS 106/15)

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

11 Sec. 15. Exemptions.

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

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

19 (c) Nothing in this Act shall be construed to limit the  
20 activities and services of a person enrolled in an approved  
21 course of study leading to a degree or certificate of registry  
22 or certification eligibility in respiratory care if these  
23 activities and services constitute a part of a supervised  
24 course of study and if the person is designated by a title  
25 which clearly indicates his or her status as a student or



1 trainee. Status as a student or trainee shall not exceed 3  
2 years from the date of enrollment in an approved course.

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

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

12 (f) Nothing in this Act shall limit a person who is  
13 credentialed by the National Society for Cardiopulmonary  
14 Technology or the National Board for Respiratory Care from  
15 performing pulmonary function tests and respiratory care  
16 procedures related to the pulmonary function test. Individuals  
17 who do not possess a license to practice respiratory care or a  
18 license in another health care field may perform basic  
19 screening spirometry limited to peak flow, forced vital  
20 capacity, slow vital capacity, and maximum voluntary  
21 ventilation if they possess spirometry certification from the  
22 National Institute for Occupational Safety and Health, an  
23 Office Spirometry Certificate from the American Association  
24 for Respiratory Care, or other similarly accepted  
25 certification training.

26 (g) Nothing in this Act shall prohibit the collection and

1 analysis of blood by clinical laboratory personnel meeting the  
2 personnel standards of the Illinois Clinical Laboratory Act.

3 (h) Nothing in this Act shall prohibit a polysomnographic  
4 technologist, technician, or trainee, as defined in the job  
5 descriptions jointly accepted by the American Academy of Sleep  
6 Medicine, the Association of Polysomnographic Technologists,  
7 the Board of Registered Polysomnographic Technologists, and  
8 the American Society of Electroneurodiagnostic Technologists,  
9 from performing activities within the scope of practice of  
10 polysomnographic technology while under the direction of a  
11 physician licensed in this State.

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

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 (k) Nothing in this Act shall be construed to prohibit a  
26 person enrolled in a respiratory care education program or an

1 approved course of study leading to a degree or certification  
2 in a health care-related discipline that provides respiratory  
3 care activities within his or her scope of practice and  
4 employed in a licensed hospital in order to provide direct  
5 patient care services under the direction of other authorized  
6 licensed personnel from providing respiratory care activities.

7 (1) Nothing in this Act prohibits a person licensed as a  
8 respiratory care practitioner in another jurisdiction from  
9 providing respiratory care: (i) in a declared emergency in this  
10 State; (ii) as a member of an organ procurement team; or (iii)  
11 as part of a medical transport team that is transporting a  
12 patient into or out of this State.

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

14 (225 ILCS 106/20)

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

16 Sec. 20. Restrictions and limitations.

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

23 (b) Nothing in the Act shall be construed to permit a  
24 person licensed as a respiratory care practitioner to engage in  
25 any manner in the practice of medicine in all its branches as

1 defined by State law.

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

3 (225 ILCS 106/22 new)

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

5 (a) Notwithstanding any other provision of this Act,  
6 unlicensed or non-credentialed individuals who deliver  
7 prescribed respiratory care equipment, including, but not  
8 limited to, oxygen, oxygen concentrators, pulmonary hygiene  
9 devices, aerosol compressors and generators, suction machines,  
10 and positive airway pressure devices, may deliver, set up,  
11 calibrate, and demonstrate the mechanical operation of a  
12 specific piece of equipment to the patient, family, and  
13 caregivers, with the exception of mechanical ventilators,  
14 which only a licensed respiratory care practitioner or other  
15 licensed health care professional operating within the scope of  
16 his or her scope of practice may deliver and set up.  
17 Demonstration of the mechanical operation of a specific piece  
18 of equipment includes demonstration of the on-off switches,  
19 emergency buttons, and alarm silence and reset buttons, as  
20 appropriate. In order for unlicensed or non-credentialed  
21 personnel to deliver, set up, calibrate, and demonstrate a  
22 specific piece of equipment as allowed in this subsection (a),  
23 the employer must document that the employee has both received  
24 training and demonstrated competency using the specific piece  
25 of equipment under the supervision of a respiratory care

1 practitioner licensed by this State or some other licensed  
2 practitioner operating within his or her scope of practice.

3 Equipment demonstration is not to be interpreted as  
4 teaching, administration, or performance of respiratory care.  
5 Unlicensed or non-credentialed individuals may not attach the  
6 equipment to the patient or instruct the patient, family, or  
7 caregiver on the use of the equipment beyond the mechanical  
8 functions of the device.

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

23 (225 ILCS 106/30)

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

25 Sec. 30. Powers and duties of the Department. Subject to

1 the provision of this Act, the Department may:

2 (a) Authorize examinations to ascertain the qualifications  
3 and fitness of an applicant for licensure as a respiratory care  
4 practitioner.

5 (b) Pass upon the qualifications of an applicant for  
6 licensure by endorsement.

7 (c) Conduct hearings on proceedings to refuse to issue,  
8 renew, or revoke a license or to suspend, place on probation,  
9 or reprimand a license issued or applied for ~~person licensed~~  
10 under this Act.

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

15 (e) Solicit the advice and expert knowledge of the Board on  
16 any matter relating to the administration and enforcement of  
17 this Act.

18 (f) (Blank). ~~Issue a quarterly report to the Board of the~~  
19 ~~status of all complaints related to licensed practitioners~~  
20 ~~received by the Department.~~

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

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

1 (225 ILCS 106/35)

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

3 Sec. 35. Respiratory Care Board.

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

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

24 (c) The membership of the Board shall reasonably represent  
25 all the geographic areas in this State. The Secretary ~~Director~~

1 shall consider the recommendations of the organization  
2 representing the largest number of respiratory care  
3 practitioners for appointment of the respiratory care  
4 practitioner members of the Board and the organization  
5 representing the largest number of physicians licensed to  
6 practice medicine in all its branches for the appointment of  
7 the medical director ~~directors~~ to the Board ~~board~~.

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

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

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

20 (g) Four members of the Board shall constitute a quorum. A  
21 vacancy in the membership of the Board shall not impair the  
22 right of a quorum to exercise all of the rights and perform all  
23 of the duties of the Board.

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



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

2 (225 ILCS 106/40)

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

4 Sec. 40. Application for original license. Applications  
5 for original license shall be made to the Department on forms  
6 prescribed by the Department and accompanied by the appropriate  
7 documentation and the required fee, which is not refundable.  
8 All applications shall contain information that, in the  
9 judgment ~~judgement~~ of the Department, will enable the  
10 Department to pass on the qualifications of the applicant for a  
11 license as a respiratory care practitioner.

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

13 (225 ILCS 106/45)

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

15 Sec. 45. Examination; failure or refusal to take  
16 examination.

17 (a) The Department shall authorize examinations of  
18 applicants as respiratory care practitioners at the times and  
19 places as it may determine. The examination shall test an  
20 applicant's ~~the~~ competence and qualifications ~~of the applicant~~  
21 to practice respiratory care.

22 (b) Applicants for examination shall pay, either to the  
23 Department or to the designated testing service, a fee covering  
24 the cost of providing the examination. Failure to appear for

1 the examination on the scheduled date, at the time and place  
2 specified, after the application for examination has been  
3 received and acknowledged by the Department or the designated  
4 testing service shall result in the forfeiture of the  
5 examination fee.

6 (c) If an applicant neglects, fails, or refuses to take an  
7 examination, or fails to pass an examination for a license  
8 under this Act within 3 years after filing an application, the  
9 application shall be denied and the fee forfeited. However, the  
10 applicant may thereafter submit a new application accompanied  
11 by the required fee. The applicant shall meet the requirements  
12 in force at the time of making the new application.

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

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

16 (225 ILCS 106/65)

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

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

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

24 (b) A person who has permitted a license to expire or who  
25 has a license on inactive status may have it restored by

1 submitting an application to the Department and filing proof of  
2 fitness, as defined by rule, to have the license restored,  
3 including, if appropriate, evidence that is satisfactory to the  
4 Department certifying the active practice of respiratory care  
5 in another jurisdiction and by paying the required fee.

6 A person practicing on an expired license is considered to  
7 be practicing without a license.

8 (c) If the person has not maintained an active practice  
9 that is satisfactory to the Department in another jurisdiction,  
10 the Department shall determine the person's fitness to resume  
11 active status. The Department may require the person to  
12 complete a specified period of evaluated respiratory care and  
13 may require successful completion of an examination.

14 (d) A person whose license expired while he or she was (1)  
15 in federal service on active duty with the Armed Forces ~~armed~~  
16 ~~forces~~ of the United States or ~~, while~~ called into service or  
17 training with the State Militia, or (2) while in training or  
18 education under the supervision of the United States government  
19 preliminary to ~~before~~ induction into ~~the~~ military service may  
20 have his or her license restored without paying any lapsed  
21 renewal fees ~~a renewal fee~~ if, within 2 years after the  
22 termination of his or her service, training, or education,  
23 except under conditions other than honorable, the Department is  
24 furnished with satisfactory evidence that the person has been  
25 so engaged and that the service, training, or education has  
26 been terminated.

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

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

6 (225 ILCS 106/80)

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

8 Sec. 80. Returned checks; fines. Any person who delivers a  
9 check or other payment to the Department that is returned to  
10 the Department unpaid by the financial institution upon which  
11 it is drawn shall pay to the Department, in addition to the  
12 amount already owed to the Department, a fine of \$50. The fines  
13 imposed by this Section are in addition to any other discipline  
14 provided under this Act for unlicensed practice or practice on  
15 a nonrenewed license. The Department shall notify the person  
16 that payment of fees and fines shall be paid to the Department  
17 by certified check or money order within 30 calendar days of  
18 the notification. If, after the expiration of 30 days from the  
19 date of the notification, the person has failed to submit the  
20 necessary remittance, the Department shall automatically  
21 terminate the license or certificate or deny the application,  
22 without hearing. If, after termination or denial, the person  
23 seeks a license or certificate, he or she shall apply to the  
24 Department for restoration or issuance of the license or  
25 certificate and pay all fees and fines due to the Department.

1 The Department may establish a fee for the processing of an  
2 application for restoration of a license or certificate to pay  
3 all expenses of processing this application. The Secretary  
4 ~~Director~~ may waive the fines due under this Section in  
5 individual cases where the Secretary ~~Director~~ finds that the  
6 fines would be unreasonable or unnecessarily burdensome.

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

8 (225 ILCS 106/95)

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

10 Sec. 95. Grounds for discipline.

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

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

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

21 (3) Conviction by plea of guilty or nolo contendere,  
22 finding of guilt, jury verdict, or entry of judgment or by  
23 sentencing of any crime, including, but not limited to,  
24 convictions preceding sentences of supervision,  
25 conditional discharge, or first offender probation, under

1 the laws of any jurisdiction of the United States or any  
2 state or territory thereof: (i) that is a felony or (ii)  
3 that is ~~or~~ a misdemeanor, an essential element of which is  
4 dishonesty, or ~~of any crime~~ that is directly related to the  
5 practice of the profession.

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

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

10 (6) Malpractice.

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

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

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

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

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

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

1 Nothing in this paragraph (12) affects any bona fide  
2 independent contractor or employment arrangements among  
3 health care professionals, health facilities, health care  
4 providers, or other entities, except as otherwise  
5 prohibited by law. Any employment arrangements may include  
6 provisions for compensation, health insurance, pension, or  
7 other employment benefits for the provision of services  
8 within the scope of the licensee's practice under this Act.  
9 Nothing in this paragraph (12) shall be construed to  
10 require an employment arrangement to receive professional  
11 fees for services rendered.

12 (13) A finding that the licensee, after having her or  
13 his license placed on probationary status or subject to  
14 conditions or restrictions, has violated the terms of  
15 probation or failed to comply with such terms or conditions  
16 ~~A finding by the Department that the licensee, after having~~  
17 ~~the license placed on probationary status, has violated the~~  
18 ~~terms of the probation.~~

19 (14) Abandonment of a patient.

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

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

1           (17) Providing respiratory care, other than pursuant  
2 to an order.

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

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

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

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

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

25           (23) Habitual or excessive use or addiction to alcohol,  
26 narcotics, stimulants, or any other chemical agent or drug



1 that results in an inability to practice with reasonable  
2 skill, judgment, or safety.

3 (24) Being named as a perpetrator in an indicated  
4 report by the Department on Aging under the Adult  
5 Protective Services Act, and upon proof by clear and  
6 convincing evidence that the licensee has caused an adult  
7 with disabilities or an older adult to be abused or  
8 neglected as defined in the Adult Protective Services Act.

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

13 (26) Willful omission to file or record, or willfully  
14 impeding the filing or recording, or inducing another  
15 person to omit to file or record medical reports as  
16 required by law or willfully failing to report an instance  
17 of suspected child abuse or neglect as required by the  
18 Abused and Neglected Child Reporting Act.

19 (27) Practicing under a false or assumed name, except  
20 as provided by law.

21 (28) Willfully or negligently violating the  
22 confidentiality between licensee and patient, except as  
23 required by law.

24 (29) The use of any false, fraudulent, or deceptive  
25 statement in any document connected with the licensee's  
26 practice.

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

11 All fines imposed under this Section shall be paid within  
12 60 days after the effective date of the order imposing the fine  
13 or in accordance with the terms set forth in the order imposing  
14 the fine.

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

16 (225 ILCS 106/100)

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

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

19 (a) If a person violates any provision of this Act, the  
20 Secretary ~~Director~~ may, in the name of the People of the State  
21 of Illinois, through the Attorney General, petition for an  
22 order enjoining the violation or an order enforcing compliance  
23 with this Act. Upon the filling of a verified petition, the  
24 court with appropriate jurisdiction may issue a temporary  
25 restraining order without notice or bond and may preliminarily

1 and permanently enjoin the violation. If it is established that  
2 the person has violated or is violating the injunction, the  
3 court may punish the offender for contempt of court.  
4 Proceedings under this Section are in addition to all other  
5 remedies and penalties provided by this Act.

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

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

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

21 (225 ILCS 106/105)

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

23 Sec. 105. Investigations; notice; hearing. The Department  
24 may investigate the actions of an applicant, a licensee, or a  
25 person claiming to hold a license. The Department shall, before

1 revoking, suspending, placing on probation, reprimanding, or  
2 taking any other disciplinary action under Section 95 of this  
3 Act, at least 30 days before the date set for the hearing (i)  
4 notify the accused, in writing, of any charges made and the  
5 time and place for the hearing on the charges, (ii) direct him  
6 or her to file a written answer to the charges with the Board  
7 under oath within 20 days after the service upon him or her of  
8 the notice, and (iii) inform the accused that, if he or she  
9 fails to answer, default will be taken against him or her and  
10 ~~or~~ his or her license ~~or certificate~~ may be suspended, revoked,  
11 placed on probationary status, or other disciplinary action  
12 taken with regard to the license, including limiting the scope,  
13 nature, or extent of his or her practice, without a hearing, as  
14 the Department may consider proper. In case the person, after  
15 receiving notice, fails to file an answer, his or her license  
16 may, in the discretion of the Department, be suspended,  
17 revoked, placed on probationary status, or the Department may  
18 take whatever disciplinary action is considered proper,  
19 including, limiting the scope, nature, or extent of the  
20 person's practice or the imposition of a fine, without a  
21 hearing, if the act or acts charged constitute sufficient  
22 grounds for an action under this Act. The written notice may be  
23 served by personal delivery or certified mail to the address of  
24 record ~~specified by the accused in his or her last notification~~  
25 ~~to the Department.~~

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

1 (225 ILCS 106/110)

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

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

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

15 (225 ILCS 106/115)

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

17 Sec. 115. Subpoena; depositions; oaths. The Department has  
18 the power to subpoena and to bring before it any person,  
19 exhibit, book, document, record, file, or any other material  
20 and to take testimony either orally or by deposition, or both,  
21 with the same fees and mileage and in the same manner as  
22 proscribed in civil cases in the courts of this State.

23 The Secretary ~~Director~~, the designated hearing officer,  
24 and every member of the Board has the power to administer oaths

1 to witnesses at any hearing which the Department is authorized  
2 to conduct, and any other oaths authorized in any Act  
3 administered by the Department.

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

5 (225 ILCS 106/125)

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

7 Sec. 125. Findings and recommendations. At the conclusion  
8 of the hearing, the Board shall present to the Secretary  
9 ~~Director~~ a written report of its findings of fact, conclusions  
10 of law, and recommendations. The report shall contain a finding  
11 of whether the licensee violated this Act or failed to comply  
12 with the conditions required in this Act. The Board shall  
13 specify the nature of the violation or failure to comply, and  
14 shall make its recommendations to the Secretary ~~Director~~.

15 The report of findings of fact, conclusions of law, and  
16 recommendations of the Board shall be the basis for the  
17 Department's order for refusal or for the granting of a license  
18 or for any other disciplinary action. If the Secretary ~~Director~~  
19 disagrees with the recommendation of the Board, the Secretary  
20 ~~Director~~ may issue an order in contravention of the Board's  
21 recommendation. The Secretary ~~Director~~ shall provide a written  
22 report to the Board on any disagreement and shall specify the  
23 reasons for the action in the final order. The report of  
24 findings of fact is not admissible in evidence against the  
25 person in a criminal prosecution brought for violation of this

1 Act, but the hearing and findings of fact are not a bar to a  
2 criminal prosecution brought for the violation of this Act.

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

4 (225 ILCS 106/130)

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

6 Sec. 130. Board; rehearing. In any case involving the  
7 refusal to issue or renew a registration, or the discipline of  
8 a registrant, a copy of the Board's report shall be served upon  
9 the respondent by the Department, either personally or as  
10 provided in this Act for the service of the notice of hearing.  
11 Within 20 calendar days after service of the notice, the  
12 respondent may present to the Department a motion in writing  
13 for a rehearing. The motion shall specify the particular  
14 grounds for rehearing. If no motion for rehearing is filed,  
15 then upon the expiration of the time specified for filing a  
16 motion (or, if a motion for rehearing is denied, then upon  
17 denial) the Secretary ~~Director~~ may enter an order in accordance  
18 with recommendation of the Board, except as provided in Section  
19 135 ~~45~~. If the respondent orders from the reporting service,  
20 and pays for a transcript of the record within the time for  
21 filing a motion for rehearing, the 20 calendar day period  
22 within which a motion may be filed shall commence upon the  
23 delivery of the transcript to the respondent.

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

1 (225 ILCS 106/135)

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

3 Sec. 135. Secretary ~~Director~~; rehearing. Whenever the  
4 Secretary ~~Director~~ believes that substantial justice has not  
5 been done in the revocation, suspension, refusal to issue or  
6 renew a license, or any other ~~the~~ discipline of an applicant or  
7 ~~a~~ licensee, he or she may order a rehearing by the same or  
8 other hearing officers.

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

10 (225 ILCS 106/140)

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

12 Sec. 140. Appointment of a hearing officer. The Secretary  
13 ~~Director~~ has the authority to appoint an attorney, licensed to  
14 practice law in the State of Illinois, to serve as a hearing  
15 officer in any action for refusal to issue or renew a license  
16 or to discipline a licensee. The hearing officer has full  
17 authority to conduct the hearing. A ~~At least one member or~~  
18 members of the Board may ~~shall~~ attend hearings ~~each hearing~~.  
19 The hearing officer shall report his or her findings of fact,  
20 conclusions of law, and recommendations to the Board and to the  
21 Secretary ~~Director~~. The Board shall have 60 calendar days from  
22 receipt of the report to review it and to present its findings  
23 of fact, conclusions of law, and recommendations to the  
24 Secretary ~~Director~~. If the Board does not present its report  
25 within the 60 day period, the Secretary ~~Director~~ may issue an



1 order based on the report of the hearing officer. If the  
2 Secretary ~~Director~~ disagrees with the recommendation of the  
3 Board or the hearing officer, the Secretary ~~Director~~ may issue  
4 an order in contravention of the recommendation.

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

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

8 (225 ILCS 106/145)

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

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

14 (1) the signature is the genuine signature of the Secretary  
15 ~~Director~~;

16 (2) the Secretary ~~Director~~ is duly appointed and qualified;  
17 and

18 (3) the Board and its ~~the~~ members ~~thereof~~ are qualified to  
19 act.

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

21 (225 ILCS 106/150)

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

23 Sec. 150. Restoration of suspended or revoked license. At  
24 any time after the successful completion of a term of

1 probation, suspension or revocation of any license, the  
2 Department may restore the license to the licensee upon the  
3 written recommendation of the Board, unless after an  
4 investigation and hearing the Board determines that  
5 restoration is not in the public interest.

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

7 (225 ILCS 106/160)

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

9 Sec. 160. Summary suspension of license. The Secretary  
10 ~~Director~~ may summarily suspend the license of a respiratory  
11 care practitioner without a hearing, simultaneously with the  
12 institution of proceedings for a hearing provided for in  
13 Section 105 of this Act, if the Secretary ~~Director~~ finds that  
14 evidence in his or her possession indicates that the  
15 continuation of practice by the respiratory care practitioner  
16 would constitute an imminent danger to the public. In the event  
17 that the Secretary ~~Director~~ summarily suspends the license of  
18 respiratory care practitioner ~~an individual~~ without a hearing,  
19 a hearing must be commenced ~~held~~ within 30 calendar days after  
20 the suspension has occurred and concluded as expeditiously as  
21 practical.

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

23 (225 ILCS 106/170)

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

1           Sec.     170.     Administrative review; certification  
2 ~~Certification~~ of record; costs.

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

7           Proceedings for judicial review shall be commenced in the  
8 circuit court of the county in which the party applying for  
9 review resides, but if the party is not a resident of this  
10 State, the venue shall be in Sangamon County.

11           The Department shall not be required to certify any record  
12 to the court, or file an answer in court, or otherwise appear  
13 in any court in a judicial review proceeding, unless and until  
14 the Department has received from the plaintiff payment of the  
15 costs of furnishing and certifying the record, which costs  
16 shall be determined by the Department ~~there is filed in the~~  
17 ~~court, with the complaint, a receipt from the Department~~  
18 ~~acknowledging payment of the costs of furnishing and certifying~~  
19 ~~the record.~~ Exhibits shall be certified without cost. Failure  
20 on the part of the plaintiff to file a receipt is grounds for  
21 dismissal of the action. During the pendency and hearing of any  
22 and all judicial proceedings incident to the disciplinary  
23 action, the sanctions imposed upon the accused by the  
24 Department specified in the Department's final administrative  
25 decision shall, as a matter of public policy, remain in full  
26 force and effect in order to protect the public pending final

1 resolution of any of the proceedings.

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

3 (225 ILCS 106/180)

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

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

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

19 (225 ILCS 106/190 new)

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

1 (225 ILCS 106/195 new)

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

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.