

AN ACT concerning 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 4.26 and by adding Section 4.36 as follows:

(5 ILCS 80/4.26)

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 Acts repealed on January 1, 2016. The following Acts are repealed on January 1, 2016:

The Illinois Athletic Trainers Practice Act.

The Illinois Roofing Industry Licensing Act.

The Illinois Dental Practice Act.

The Collection Agency Act.

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

~~The Respiratory Care Practice Act.~~

The Hearing Instrument Consumer Protection Act.

The Illinois Physical Therapy Act.

The Professional Geologist Licensing Act.

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

(5 ILCS 80/4.36 new)

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 Act repealed on January 1, 2026.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

Act is repealed on January 1, 2026:

The Respiratory Care Practice Act.

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

(225 ILCS 106/10)

(Section scheduled to be repealed on January 1, 2016)

Sec. 10. Definitions. In this Act:

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

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

"Board" means the Respiratory Care Board appointed by the Secretary ~~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 medical gas ~~oxygen~~.

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

(6) Mechanical ventilatory support.

(7) Patient assessment.

(8) Patient education.

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

"Department" means the Department of Financial and

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.

"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, cardiopulmonary disease management, 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 and procedures 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, including, but not limited to, hemodynamic cardiovascular 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.

"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 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.

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

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

(225 ILCS 106/15)

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

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.

(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, 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 respiratory care procedures related to the pulmonary function test. Individuals who do not possess a license to practice respiratory care or a license in another health care field may perform basic screening spirometry limited to peak flow, forced vital capacity, slow vital capacity, and maximum voluntary ventilation if they possess spirometry certification from the National Institute for Occupational Safety and Health, an Office Spirometry Certificate from the American Association for Respiratory Care, or other similarly accepted certification training.

(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.

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

(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.

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

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

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

(225 ILCS 106/20)

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

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; (ii) use the title "respiratory care practitioner"; or (iii) perform or offer to 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. 94-523, eff. 1-1-06.)

(225 ILCS 106/22 new)

Sec. 22. Durable medical equipment use and training.

(a) Notwithstanding any other provision of this Act, unlicensed or non-credentialed individuals who deliver prescribed respiratory care equipment, including, but not limited to, oxygen, oxygen concentrators, pulmonary hygiene devices, aerosol compressors and generators, suction machines, and positive airway pressure devices, may deliver, set up, calibrate, and demonstrate the mechanical operation of a specific piece of equipment to the patient, family, and caregivers, with the exception of mechanical ventilators, which only a licensed respiratory care practitioner or other authorized licensed personnel operating within the scope of his or her scope of practice may deliver and set up. Demonstration of the mechanical operation of a specific piece of equipment includes demonstration of the on-off switches, emergency buttons, and alarm silence and reset buttons, as appropriate. In order for unlicensed or non-credentialed personnel to deliver, set up, calibrate, and demonstrate a specific piece of equipment as allowed in this subsection (a), the employer must document that the employee has both received training and demonstrated competency using the specific piece of equipment under the supervision of a respiratory care practitioner licensed by this State or some other licensed practitioner

operating within his or her scope of practice.

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

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

(225 ILCS 106/30)

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

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

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

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

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

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

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

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

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

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

(225 ILCS 106/35)

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

Sec. 35. Respiratory Care Board.

(a) The Secretary ~~Director~~ shall appoint a Respiratory Care Board which shall serve in an advisory capacity to the Secretary ~~Director~~. The Board shall consist of 7 ~~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, one member ~~3 members~~ shall be a qualified medical director ~~directors~~, and 2 members shall be hospital administrators.

(b) Members shall be appointed to a 4-year ~~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 10 ~~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 Secretary ~~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 physicians licensed to practice medicine in all its branches for the appointment of the medical director ~~directors~~ to the Board ~~board~~.

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

(e) The Secretary ~~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.

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

(h) Members of the Board shall be immune from suit in any action based upon any disciplinary proceedings or other activities performed as members of the Board, except for willful and wanton misconduct.

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

(225 ILCS 106/40)

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

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

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

(225 ILCS 106/45)

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

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

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

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

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

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

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

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

(225 ILCS 106/65)

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

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

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

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

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

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

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

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

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

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

(225 ILCS 106/80)

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

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

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

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

(225 ILCS 106/95)

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

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 or non-disciplinary action as the Department considers appropriate, including the issuance of fines not to exceed \$10,000 ~~\$5,000~~ for each violation, with regard to any license for any one or combination ~~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 the ~~its~~ rules adopted under this Act.

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

the laws of any jurisdiction of the United States or any state or territory thereof: (i) that is a felony or (ii) that is ~~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.

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

(13) A finding that the licensee, after having her or his license placed on probationary status or subject to conditions or restrictions, has violated the terms of probation or failed to comply with such terms or conditions
~~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 records or 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.

(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 Adult Protective Services Act, and upon proof by clear and convincing evidence that the licensee has caused an adult with disabilities or an older adult to be abused or neglected as defined in the Adult Protective Services Act.

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

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

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

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

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

(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 Secretary ~~Director~~ that the licensee be allowed to resume his or her practice.

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

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

(225 ILCS 106/100)

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

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

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

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

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

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

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

(225 ILCS 106/105)

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

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

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

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

(225 ILCS 106/110)

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

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

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

(225 ILCS 106/115)

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

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

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

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

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

(225 ILCS 106/125)

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

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

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

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

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

(225 ILCS 106/130)

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

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

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

(225 ILCS 106/135)

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

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

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

(225 ILCS 106/140)

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

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

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

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

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

(225 ILCS 106/145)

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

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

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

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

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

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

(225 ILCS 106/150)

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

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

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

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

(225 ILCS 106/160)

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

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

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

(225 ILCS 106/170)

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

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

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

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

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

resolution of any of the proceedings.

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

(225 ILCS 106/180)

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

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

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

(225 ILCS 106/190 new)

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

(225 ILCS 106/195 new)

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

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