

1 AN ACT concerning professional regulation.

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

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

6 (5 ILCS 80/4.16)

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 Acts repealed January 1, 2006.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8 Acts are repealed January 1, 2006:

9 ~~The Respiratory Care Practice Act.~~

10 The Hearing Instrument Consumer Protection Act.

11 The Illinois Dental Practice Act.

12 The Professional Geologist Licensing Act.

13 The Illinois Athletic Trainers Practice Act.

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

16 The Collection Agency Act.

17 The Illinois Roofing Industry Licensing Act.

18 The Illinois Physical Therapy Act.

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

22 (5 ILCS 80/4.26 new)

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 Act repealed on January 1, 2016.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24 Act is repealed on January 1, 2016:

25 The Respiratory Care Practice Act.

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

28 (225 ILCS 106/10)

29 (Section scheduled to be repealed on January 1, 2006)

1 Sec. 10. Definitions. In this Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (6) Mechanical ventilatory support.

18 (7) Patient assessment.

19 (8) Patient education.

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

22 "Director" means the Director of Professional Regulation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (225 ILCS 106/15)

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

21 Sec. 15. Exemptions.

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

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

35 (c) Nothing in this Act shall be construed to limit the

1 activities and services of a person enrolled in an approved
2 course of study leading to a degree or certificate of registry
3 or certification eligibility in respiratory care if these
4 activities and services constitute a part of a supervised
5 course of study and if the person is designated by a title
6 which clearly indicates his or her status as a student or
7 trainee. Status as a student or trainee shall not exceed 3
8 years from the date of enrollment in an approved course.

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

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

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

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

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

1 ~~person who is not licensed under this Act from performing~~
2 ~~respiratory care if he or she does not represent himself or~~
3 ~~herself as a respiratory care practitioner.~~

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

13 (j) Nothing in this Act shall be construed to limit an
14 unlicensed practitioner in a licensed hospital who is working
15 under the proximate supervision of a licensed health care
16 professional or other authorized licensed personnel and
17 providing direct patient care services from performing basic
18 respiratory care activities if the unlicensed practitioner (i)
19 has demonstrated competency to perform the basic respiratory
20 care activities to the facility that employs or contracts with
21 the individual and (ii) is, at a minimum, evaluated annually,
22 with the competency of the unlicensed practitioner's
23 performance of basic respiratory care activities documented by
24 the facility. ~~This Act does not prohibit a hospital, nursing~~
25 ~~home, long term care facility, home health agency, health~~
26 ~~system or network, or any other organization or institution~~
27 ~~that provides health or illness care for individuals or~~
28 ~~communities from providing respiratory care through~~
29 ~~practitioners that the organization considers competent. These~~
30 ~~entities shall not be required to utilize licensed respiratory~~
31 ~~care practitioners to practice respiratory care when providing~~
32 ~~respiratory care for their patients or customers.~~
33 ~~Organizations providing respiratory care may decide who is~~
34 ~~competent to deliver that respiratory care. Nothing in this Act~~
35 ~~shall be construed to limit the ability of an employer to~~
36 ~~utilize a respiratory care practitioner within the employment~~

1 ~~setting consistent with the individual's skill and training.~~

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

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

11 (225 ILCS 106/20)

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

13 Sec. 20. Restrictions and limitations.

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

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

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

25 (225 ILCS 106/35)

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

27 Sec. 35. Respiratory Care Board.

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

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

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

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

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

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

31 (g) Every 3 years after the effective date of this
32 amendatory Act of the 94th General Assembly, the Board shall
33 conduct a study and report its findings to the Governor and the
34 General Assembly on the effects of this Act on the access,
35 quality, and cost of respiratory care services in the State.

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

1 (225 ILCS 106/50)

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

3 Sec. 50. Qualifications for a license.

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

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

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

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

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

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

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

1 ~~Act shall be issued a license. To qualify for a license under~~
2 ~~subsection (b), all applications for a license under this~~
3 ~~subsection (b) shall be filed within 24 months after the~~
4 ~~effective date of this Act.~~

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

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

28 (225 ILCS 106/95)

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

30 Sec. 95. Grounds for discipline.

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

1 the following:

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

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

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

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

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

14 (6) Malpractice.

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

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

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

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

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

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

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

34 (14) Abandonment of a patient.

35 (15) Willfully filing false reports relating to a
36 licensee's practice including, but not limited to, false

1 records filed with a federal or State agency or department.

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

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

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

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

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

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

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

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

33 (24) Being named as a perpetrator in an indicated
34 report by the Department on Aging under the Elder Abuse and
35 Neglect Act, and upon proof by clear and convincing
36 evidence that the licensee has caused an elderly person to

1 be abused or neglected as defined in the Elder Abuse and
2 Neglect Act.

3 (25) Willfully failing to report an instance of
4 suspected elder abuse or neglect as required by the Elder
5 Abuse and Neglect Act.

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

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

17 (225 ILCS 106/55 rep.)

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

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