



Sen. M. Maggie Crotty

Filed: 4/11/2005

09400SB0139sam003

LRB094 06676 RAS 44830 a

1 AMENDMENT TO SENATE BILL 139

2 AMENDMENT NO. _____. Amend Senate Bill 139, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

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

7 (5 ILCS 80/4.16)

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 Acts repealed January 1, 2006.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9 Acts are repealed January 1, 2006:

10 ~~The Respiratory Care Practice Act.~~

11 The Hearing Instrument Consumer Protection Act.

12 The Illinois Dental Practice Act.

13 The Professional Geologist Licensing Act.

14 The Illinois Athletic Trainers Practice Act.

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

17 The Collection Agency Act.

18 The Illinois Roofing Industry Licensing Act.

19 The Illinois Physical Therapy Act.

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

23 (5 ILCS 80/4.26 new)

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 Act repealed on January 1, 2016.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2 Act is repealed on January 1, 2016:

3 The Respiratory Care Practice Act.

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

6 (225 ILCS 106/10)

7 (Section scheduled to be repealed on January 1, 2006)

8 Sec. 10. Definitions. In this Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (4) The administration of aerosol medication or
25 oxygen.

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

28 (6) Mechanical ventilatory support.

29 (7) Patient assessment.

30 (8) Patient education.

31 "Department" means the Department of Professional
32 Regulation.

33 "Director" means the Director of Professional Regulation.

34 "Licensed" means that which is required to hold oneself out

1 as a respiratory care practitioner as defined in this Act.

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

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

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

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

27 "Respiratory care" and "cardiorespiratory care" mean
28 preventative services, evaluation and assessment services,
29 therapeutic services, and rehabilitative services under the
30 order of a licensed health care professional or a certified
31 registered nurse anesthetist in a licensed hospital for an
32 individual with a disorder, disease, or abnormality of the
33 cardiopulmonary system. These terms include, but are not
34 limited to, measuring, observing, assessing, and monitoring

1 signs and symptoms, reactions, general behavior, and general
2 physical response of individuals to respiratory care services,
3 including the determination of whether those signs, symptoms,
4 reactions, behaviors, or general physical responses exhibit
5 abnormal characteristics; the administration of
6 pharmacological and therapeutic agents related to respiratory
7 care services; the collection of blood specimens and other
8 bodily fluids and tissues for, and the performance of,
9 cardiopulmonary diagnostic testing procedures, including, but
10 not limited to, blood gas analysis; development,
11 implementation, and modification of respiratory care treatment
12 plans based on assessed abnormalities of the cardiopulmonary
13 system, respiratory care guidelines, referrals, and orders of a
14 licensed health care professional; application, operation, and
15 management of mechanical ventilatory support and other means of
16 life support; and the initiation of emergency procedures under
17 the rules promulgated by the Department. A respiratory care
18 practitioner shall refer to a physician licensed to practice
19 medicine in all its branches any patient whose condition, at
20 the time of evaluation or treatment, is determined to be beyond
21 the scope of practice of the respiratory care practitioner.
22 ~~include, but are not limited to, direct and indirect services~~
23 ~~in the implementation of treatment, management, disease~~
24 ~~prevention, diagnostic testing, monitoring, and care of~~
25 ~~patients with deficiencies and abnormalities associated with~~
26 ~~the cardiopulmonary system, including (i) a determination of~~
27 ~~whether such signs and symptoms, reactions, behavior, and~~
28 ~~general response exhibit abnormal characteristics and (ii)~~
29 ~~implementation of treatment based on the observed~~
30 ~~abnormalities, of appropriate reporting, referral, respiratory~~
31 ~~care protocols, or changes in treatment pursuant to the~~
32 ~~written, oral, or telephone transmitted orders of a licensed~~
33 ~~physician. "Respiratory care" includes the transcription and~~
34 ~~implementation of written, oral, and telephone transmitted~~

1 ~~orders by a licensed physician pertaining to the practice of~~
2 ~~respiratory care and the initiation of emergency procedures~~
3 ~~under rules promulgated by the Board or as otherwise permitted~~
4 ~~in this Act. The practice of respiratory care may be performed~~
5 ~~in any clinic, hospital, skilled nursing facility, private~~
6 ~~dwelling, or other place considered appropriate by the Board in~~
7 ~~accordance with the written, oral, or telephone transmitted~~
8 ~~order of a physician and shall be performed under the direction~~
9 ~~of a licensed physician. "Respiratory care" includes~~
10 ~~inhalation and respiratory therapy.~~

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 ~~physician~~ in
26 relation to the technical aspects of cardiorespiratory
27 care and the safe and effective methods for administering
28 cardiorespiratory care modalities.

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

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

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

2 (225 ILCS 106/15)

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

4 Sec. 15. Exemptions.

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

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

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

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

31 (e) Nothing in this Act shall be construed to prevent a
32 person who is a registered nurse, an advanced practice nurse,
33 ~~or a certified registered nurse anesthetist or a licensed~~

1 practical nurse, a physician assistant, or a physician licensed
2 to practice medicine in all its branches from providing
3 respiratory care.

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

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

13 (h) Nothing in this Act shall prohibit a polysomnographic
14 technologist, technician, or trainee, as defined in the job
15 descriptions jointly accepted by the American Academy of Sleep
16 Medicine, the Association of Polysomnographic Technologists,
17 the Board of Registered Polysomnographic Technologists, and
18 the American Society of Electroneurodiagnostic Technologists,
19 from performing activities within the scope of practice of
20 polysomnographic technology while under the direction of a
21 physician licensed in this State ~~limit the activities of a~~
22 ~~person who is not licensed under this Act from performing~~
23 ~~respiratory care if he or she does not represent himself or~~
24 ~~herself as a respiratory care practitioner.~~

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

34 (j) Nothing in this Act shall be construed to limit an

1 unlicensed practitioner in a licensed hospital who is working
2 under the proximate supervision of a licensed health care
3 professional or other authorized licensed personnel and
4 providing direct patient care services from performing basic
5 respiratory care activities if the unlicensed practitioner (i)
6 has demonstrated competency to perform the basic respiratory
7 care activities to the facility that employs or contracts with
8 the individual and (ii) is, at a minimum, evaluated annually,
9 with the competency of the unlicensed practitioner's
10 performance of basic respiratory care activities documented by
11 the facility. This Act does not prohibit a hospital, nursing
12 home, long term care facility, home health agency, health
13 system or network, or any other organization or institution
14 that provides health or illness care for individuals or
15 communities from providing respiratory care through
16 practitioners that the organization considers competent. These
17 entities shall not be required to utilize licensed respiratory
18 care practitioners to practice respiratory care when providing
19 respiratory care for their patients or customers.
20 Organizations providing respiratory care may decide who is
21 competent to deliver that respiratory care. Nothing in this Act
22 shall be construed to limit the ability of an employer to
23 utilize a respiratory care practitioner within the employment
24 setting consistent with the individual's skill and training.

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

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

1 (225 ILCS 106/20)

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

3 Sec. 20. Restrictions and limitations.

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

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

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

15 (225 ILCS 106/35)

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

17 Sec. 35. Respiratory Care Board.

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

25 (b) Members shall be appointed to a 3-year term; except,
26 initial appointees shall serve the following terms: 3 members
27 shall serve for one year, 3 members shall serve for 2 years,
28 and 3 members shall serve for 3 years. A member whose term has
29 expired shall continue to serve until his or her successor is
30 appointed and qualified. No member shall be reappointed to the
31 Board for a term that would cause his or her continuous service
32 on the Board to be longer than 8 years. Appointments to fill
33 vacancies shall be made in the same manner as original

1 appointments for the unexpired portion of the vacated term.
2 Initial terms shall begin upon the effective date of this Act.

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

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

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

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

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

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

28 (225 ILCS 106/50)

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

30 Sec. 50. Qualifications for a license.

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

1 applicant who:

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

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

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

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

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

15 (b) Beginning 6 months after December 31, 2005, all
16 individuals who provide satisfactory evidence to the
17 Department of 3 years of experience, with a minimum of 400
18 hours per year, in the practice of respiratory care during the
19 5 years immediately preceding December 31, 2005 shall be issued
20 a license. This experience must have been obtained while under
21 the supervision of a certified respiratory therapist, a
22 registered respiratory therapist, or a licensed registered
23 nurse or under the supervision or direction of a licensed
24 health care professional. All applications for a license under
25 this subsection (b) shall be postmarked within 12 months after
26 December 31, 2005. All individuals who, on the effective date
27 of this Act, provide satisfactory evidence to the Department of
28 3 years experience in the practice of respiratory care during
29 the 5 years immediately preceding the effective date of this
30 Act shall be issued a license. To qualify for a license under
31 subsection (b), all applications for a license under this
32 subsection (b) shall be filed within 24 months after the
33 effective date of this Act.

34 (c) A person may practice as a respiratory care

1 practitioner if he or she has applied in writing to the
2 Department in form and substance satisfactory to the Department
3 for a license as a registered respiratory care practitioner and
4 has complied with all the provisions under this Section except
5 for the passing of an examination to be eligible to receive
6 such license, until the Department has made the decision that
7 the applicant has failed to pass the next available examination
8 authorized by the Department or has failed, without an approved
9 excuse, to take the next available examination authorized by
10 the Department or until the withdrawal of the application, but
11 not to exceed 6 months. An applicant practicing professional
12 registered respiratory care under this subsection (c) who
13 passes the examination, however, may continue to practice under
14 this subsection (c) until such time as he or she receives his
15 or her license to practice or until the Department notifies him
16 or her that the license has been denied. No applicant for
17 licensure practicing under the provisions of this subsection
18 (c) shall practice professional respiratory care except under
19 the direct supervision of a licensed health care professional
20 or authorized licensed personnel. In no instance shall any such
21 applicant practice or be employed in any supervisory capacity.
22 (Source: P.A. 89-33, eff. 1-1-96.)

23 (225 ILCS 106/95)

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

25 Sec. 95. Grounds for discipline.

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

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

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

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

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

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

11 (6) Malpractice.

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

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

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

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

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

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

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

31 (14) Abandonment of a patient.

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

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

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

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

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

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

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

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

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

32 (24) Being named as a perpetrator in an indicated
33 report by the Department on Aging under the Elder Abuse and
34 Neglect Act, and upon proof by clear and convincing

1 evidence that the licensee has caused an elderly person to
2 be abused or neglected as defined in the Elder Abuse and
3 Neglect Act.

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

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

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

18 (225 ILCS 106/55 rep.)

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

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