



Sen. M. Maggie Crotty

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09400SB0139sam001

LRB094 06676 RAS 43895 a

1 AMENDMENT TO SENATE BILL 139

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

4 "Section 5. The Regulatory Sunset Act is amended by
5 changing 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 Acts repealed January 1, 2006.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8 Acts are repealed January 1, 2006: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 Act repealed on January 1, 2016.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

1 Act is repealed on January 1, 2016:

2 The Respiratory Care Practice Act.

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

5 (225 ILCS 106/10)

6 (Section scheduled to be repealed on January 1, 2006)

7 Sec. 10. Definitions. In this Act:

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

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

12 "Department" means the Department of Professional
13 Regulation.

14 "Director" means the Director of Professional Regulation.

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

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

26 "Order" means a written, oral, or telecommunicated
27 authorization for respiratory care services for a patient by
28 (i) a licensed health care professional who maintains medical
29 supervision of the patient and makes a diagnosis or verifies
30 that the patient's condition is such that it may be treated by
31 a respiratory care practitioner or (ii) a certified registered
32 nurse anesthetist in a licensed hospital.

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

1 ~~whether such signs and symptoms, reactions, behavior, and~~
2 ~~general response exhibit abnormal characteristics and (ii)~~
3 ~~implementation of treatment based on the observed~~
4 ~~abnormalities, of appropriate reporting, referral, respiratory~~
5 ~~care protocols, or changes in treatment pursuant to the~~
6 ~~written, oral, or telephone transmitted orders of a licensed~~
7 ~~physician. "Respiratory care" includes the transcription and~~
8 ~~implementation of written, oral, and telephone transmitted~~
9 ~~orders by a licensed physician pertaining to the practice of~~
10 ~~respiratory care and the initiation of emergency procedures~~
11 ~~under rules promulgated by the Board or as otherwise permitted~~
12 ~~in this Act. The practice of respiratory care may be performed~~
13 ~~in any clinic, hospital, skilled nursing facility, private~~
14 ~~dwelling, or other place considered appropriate by the Board in~~
15 ~~accordance with the written, oral, or telephone transmitted~~
16 ~~order of a physician and shall be performed under the direction~~
17 ~~of a licensed physician. "Respiratory care" includes~~
18 ~~inhalation and respiratory therapy.~~

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

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

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

32 (2) The person is capable of serving as a resource to
33 the licensed health care professional ~~physician~~ in
34 relation to the technical aspects of cardiorespiratory

1 care and the safe and effective methods for administering
2 cardiorespiratory care modalities.

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

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

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

10 (225 ILCS 106/15)

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

12 Sec. 15. Exemptions.

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

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

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

1 years from the date of enrollment in an approved course.

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

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

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

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

21 (h) Nothing in this Act shall prohibit a polysomnographic
22 technologist, technician, or trainee, as defined by the
23 Association of Polysomnographic Technologists (APT), from
24 performing activities within the scope of practice adopted by
25 the American Academy of Sleep Medicine or prohibit other
26 personnel of a licensed health care professional from
27 performing activities within the scope of practice of the
28 personnel, while under the direction of a licensed health care
29 professional ~~limit the activities of a person who is not~~
30 ~~licensed under this Act from performing respiratory care if he~~
31 ~~or she does not represent himself or herself as a respiratory~~
32 ~~care practitioner.~~

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

1 ~~members of other professional groups, including but not limited~~
2 ~~to nurses, from performing or advertising that he or she~~
3 ~~performs the work of a respiratory care practitioner in a~~
4 ~~manner consistent with his or her training, or any code of~~
5 ~~ethics of his or her respective professions, but only if he or~~
6 ~~she does not represent himself or herself by any title or~~
7 ~~description as a respiratory care practitioner.~~

8 (j) (Blank). ~~This Act does not prohibit a hospital, nursing~~
9 ~~home, long term care facility, home health agency, health~~
10 ~~system or network, or any other organization or institution~~
11 ~~that provides health or illness care for individuals or~~
12 ~~communities from providing respiratory care through~~
13 ~~practitioners that the organization considers competent. These~~
14 ~~entities shall not be required to utilize licensed respiratory~~
15 ~~care practitioners to practice respiratory care when providing~~
16 ~~respiratory care for their patients or customers.~~
17 ~~Organizations providing respiratory care may decide who is~~
18 ~~competent to deliver that respiratory care. Nothing in this Act~~
19 ~~shall be construed to limit the ability of an employer to~~
20 ~~utilize a respiratory care practitioner within the employment~~
21 ~~setting consistent with the individual's skill and training.~~

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

23 (225 ILCS 106/20)

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

25 Sec. 20. Restrictions and limitations.

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

32 (b) Nothing in the Act shall be construed to permit a
33 person licensed as a respiratory care practitioner to engage in

1 any manner in the practice of medicine in all its branches as
2 defined by State law.

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

4 (225 ILCS 106/35)

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

6 Sec. 35. Respiratory Care Board.

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

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

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

33 (d) The Director has the authority to remove any member of

1 the Board from office for neglect of any duty required by law,
2 for incompetency, or for unprofessional or dishonorable
3 conduct.

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

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

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

12 (225 ILCS 106/50)

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

14 Sec. 50. Qualifications for a license.

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

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

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

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

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

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

32 (b) Beginning 6 months after December 31, 2005, all
33 individuals who provide satisfactory evidence to the

1 Department of 3 years of experience in the practice of
2 respiratory care during the 5 years immediately preceding
3 December 31, 2005 shall be issued a license. This experience
4 must have been obtained while under the supervision of a
5 certified respiratory therapist or a registered respiratory
6 therapist. All applications for a license under this subsection
7 (b) shall be postmarked within 12 months after December 31,
8 2005.

9 ~~All individuals who, on the effective date of this~~
10 ~~Act, provide satisfactory evidence to the Department of 3~~
11 ~~years experience in the practice of respiratory care during~~
12 ~~the 5 years immediately preceding the effective date of~~
13 ~~this Act shall be issued a license. To qualify for a~~
14 ~~license under subsection (b), all applications for a~~
15 ~~license under this subsection (b) shall be filed within 24~~
16 ~~months after the effective date of this Act.~~

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

18 (225 ILCS 106/95)

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

20 Sec. 95. Grounds for discipline.

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

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

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

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

1 practice of the profession.

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

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

6 (6) Malpractice.

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

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

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

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

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

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

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

26 (14) Abandonment of a patient.

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

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

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

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

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

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

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

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

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

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

33 (25) Willfully failing to report an instance of
34 suspected elder abuse or neglect as required by the Elder

1 Abuse and Neglect Act.

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

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

13 (225 ILCS 106/55 rep.)

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

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