

1 AN ACT concerning regulation.

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

4 Section 5. The Regulatory Sunset Act is amended by changing
5 Section 4.26 and by adding Section 4.36 as follows:

6 (5 ILCS 80/4.26)

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 Acts repealed on January 1, 2016.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8 Acts are repealed on January 1, 2016:

9 The Illinois Athletic Trainers Practice Act.

10 The Illinois Roofing Industry Licensing Act.

11 The Illinois Dental Practice Act.

12 The Collection Agency Act.

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

15 ~~The Respiratory Care Practice Act.~~

16 The Hearing Instrument Consumer Protection Act.

17 The Illinois Physical Therapy Act.

18 The Professional Geologist Licensing Act.

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

21 (5 ILCS 80/4.36 new)

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 Act repealed on January 1, 2026.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

1 Act is repealed on January 1, 2026:

2 The Respiratory Care Practice Act.

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

7 (225 ILCS 106/10)

8 (Section scheduled to be repealed on January 1, 2016)

9 Sec. 10. Definitions. In this Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (6) Mechanical ventilatory support.

19 (7) Patient assessment.

20 (8) Patient education.

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

26 "Department" means the Department of Financial and

1 Professional Regulation.

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

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

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

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

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

26 "Proximate supervision" means a situation in which an

1 individual is responsible for directing the actions of another
2 individual in the facility and is physically close enough to be
3 readily available, if needed, by the supervised individual.

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

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

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

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

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

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

1 care modalities.

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

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

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

8 (225 ILCS 106/15)

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

10 Sec. 15. Exemptions.

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

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

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, a
8 licensed practical nurse, a physician assistant, or a physician
9 licensed to practice medicine in all its branches from
10 providing respiratory care.

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

25 (g) Nothing in this Act shall prohibit the collection and
26 analysis of blood by clinical laboratory personnel meeting the

1 personnel standards of the Illinois Clinical Laboratory Act.

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

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

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 been trained to perform the basic respiratory care
20 activities at the facility that employs or contracts with the
21 individual and (ii) at a minimum, has annually received an
22 evaluation of the unlicensed practitioner's performance of
23 basic respiratory care activities documented by the facility.

24 (k) Nothing in this Act shall be construed to prohibit a
25 person enrolled in a respiratory care education program or an
26 approved course of study leading to a degree or certification

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

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

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

13 (225 ILCS 106/20)

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

15 Sec. 20. Restrictions and limitations.

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

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

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

2 (225 ILCS 106/22 new)

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

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

1 operating within his or her scope of practice.

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

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

22 (225 ILCS 106/30)

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

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

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

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

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

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

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

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

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

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

1 (225 ILCS 106/35)

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

3 Sec. 35. Respiratory Care Board.

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

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

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

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

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

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

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

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

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

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

2 (225 ILCS 106/40)

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

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

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

13 (225 ILCS 106/45)

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

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

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

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

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

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

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

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

16 (225 ILCS 106/65)

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

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

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

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

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

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

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

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

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

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

6 (225 ILCS 106/80)

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

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

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

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

8 (225 ILCS 106/95)

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

10 Sec. 95. Grounds for discipline.

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

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

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

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

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

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

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

10 (6) Malpractice.

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

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

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

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

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

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

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

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

19 (14) Abandonment of a patient.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (225 ILCS 106/100)

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

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

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

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

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

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

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

21 (225 ILCS 106/105)

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

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

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

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

1 (225 ILCS 106/110)

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

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

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

15 (225 ILCS 106/115)

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

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

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

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

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

5 (225 ILCS 106/125)

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

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

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

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

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

4 (225 ILCS 106/130)

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

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

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

1 (225 ILCS 106/135)

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

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

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

10 (225 ILCS 106/140)

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

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

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

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

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

8 (225 ILCS 106/145)

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

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

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

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

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

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

21 (225 ILCS 106/150)

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

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

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

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

7 (225 ILCS 106/160)

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

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

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

23 (225 ILCS 106/170)

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

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

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

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

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

1 resolution of any of the proceedings.

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

3 (225 ILCS 106/180)

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

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

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

19 (225 ILCS 106/190 new)

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

1 (225 ILCS 106/195 new)

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

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