

AN ACT

To amend sections 4761.01, 4761.02, 4761.03, 4761.04, 4761.05, 4761.06, 4761.07, 4761.08, 4761.09, 4761.10, and 4761.11 and to enact sections 4761.031, 4761.13, 4761.14, 4761.15, 4761.16, and 4761.17 of the Revised Code to revise the laws regarding the powers and duties of the Ohio Respiratory Care Board.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 4761.01, 4761.02, 4761.03, 4761.04, 4761.05, 4761.06, 4761.07, 4761.08, 4761.09, 4761.10, and 4761.11 be amended and sections 4761.031, 4761.13, 4761.14, 4761.15, 4761.16, and 4761.17 of the Revised Code be enacted to read as follows:

Sec. 4761.01. As used in ~~sections 4761.01 to 4761.12 of the Revised Code~~ this chapter:

(A) "Respiratory care" means rendering or offering to render to individuals, groups, organizations, or the public any service involving the evaluation of cardiopulmonary function, the treatment of cardiopulmonary impairment, the assessment of treatment effectiveness, and the care of patients with deficiencies and abnormalities associated with the cardiopulmonary system, ~~performed upon the prescription and under the supervision of a physician licensed under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.~~ The practice of respiratory care includes:

(1) Obtaining, analyzing, testing, measuring, and monitoring blood and gas samples in the determination of cardiopulmonary parameters and related physiologic data, including flows, pressures, and volumes, and the use of equipment employed for this purpose;

(2) Administering, monitoring, recording the results of, and instructing in the use of medical gases, aerosols, and bronchopulmonary hygiene techniques, including drainage, aspiration, and sampling, and applying, maintaining, and instructing in the use of artificial airways, ventilators, and other life support equipment employed in the treatment of cardiopulmonary impairment and provided in collaboration with other licensed health care

professionals responsible for providing care;

(3) Performing cardiopulmonary resuscitation and respiratory rehabilitation techniques;

(4) Administering medications for the testing or treatment of cardiopulmonary impairment ~~upon the prescription and under the supervision of a physician licensed under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.~~

(B) "Respiratory care professional" means a person who is licensed under this chapter to practice the full range of respiratory care services as defined in division (A) of this section ~~and who practices respiratory care upon the prescription and under the supervision of a physician licensed.~~

(C) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(D) "Registered nurse" means an individual licensed under Chapter 4723. of the Revised Code to engage in the practice of nursing as a registered nurse.

(E) "Hospital" means a facility that meets the operating standards of section 3727.02 of the Revised Code.

(F) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

Sec. 4761.02. The governor, with the advice and consent of the senate, shall appoint the Ohio respiratory care board, consisting of five residents of this state. Three members of the board shall be respiratory care professionals who were engaged in or actively associated with the practice of respiratory care in this state for at least five years immediately preceding appointment. One member shall be a physician ~~authorized to practice medicine and surgery or osteopathic medicine and surgery under Chapter 4731. of the Revised Code~~ who has clinical training and experience in the management of pulmonary disease. One member shall represent the public.

After the term of a member of the board expires or becomes vacant, the Ohio state medical association may submit to the governor the names of nominees for the board position to be filled by a physician. The board of directors of the Ohio society for respiratory care, inc., may recommend to the governor at least three persons for each board position to be filled by a respiratory care professional ~~appointment to board membership~~. The American lung association of Ohio may submit to the governor the names of nominees for the board position to be filled by a person representing the public. The governor shall consider these nominees in making the appointments.

~~Of the initial appointments, one shall be for a term ending March 14, 1990, two shall be for terms ending March 14, 1991, and two shall be for terms ending March 14, 1992. Thereafter, terms~~ Terms of office shall be for three years, each term ending on the same day of the same month of the year as did the term which it succeeds. A member shall serve subsequent to the expiration of the member's term until a successor is appointed and qualifies, or until a period of sixty days has elapsed, whichever occurs first. Each member, before entering upon the duties of office, shall subscribe to and file with the secretary of state the oath of office required under Section 7 of Article XV, Ohio Constitution. Vacancies shall be filled in the manner prescribed for the regular appointments to the board and shall be limited to the unexpired terms. Members of the board may be reappointed.

Annually, upon the qualification of the member or members appointed in that year, the Ohio respiratory care board shall organize and shall select from its members a president and secretary. ~~The~~ A majority of the members of the board shall constitute a quorum to transact and vote on the business of the board. ~~The board shall meet as a whole to determine all administrative matters.~~

Each member of the board shall receive an amount fixed pursuant to division (J) of section 124.15 of the Revised Code for each day actually employed in the discharge of the member's duties. In addition, each member shall receive actual and necessary expenses incurred in the performance of the member's official duties.

The board shall employ an executive ~~secretary~~ director who shall be in the unclassified service of the state. The executive ~~secretary~~ director shall assist the board in the administration and enforcement of this chapter and shall employ ~~employees~~ individuals as the board considers necessary to ~~carry out the board's functions~~ provide that assistance.

Sec. 4761.03. The Ohio respiratory care board shall regulate the practice of respiratory care in this state and the persons to whom the board issues licenses and limited permits under this chapter. Rules adopted under this chapter that deal with the provision of respiratory care in a hospital, other than rules regulating the issuance of licenses or limited permits, shall be consistent with the conditions for participation under medicare, Title XVIII of the "Social Security Act," 49 79 Stat. ~~620~~ 286 (1935 1965), 42 U.S.C. ~~304~~ U.S.C.A. 1395, as amended, and with the respiratory care accreditation standards of the joint commission on accreditation of healthcare organizations or the American osteopathic association.

The board shall:

(A) Adopt, and may rescind or amend, rules in accordance with Chapter

119. of the Revised Code to carry out the purposes of this chapter, including rules prescribing:

(1) The form and manner for filing applications for licensure and renewal, limited permits, and limited permit extensions under sections 4761.05 and 4761.06 of the Revised Code;

(2) The form, scoring, and scheduling of examinations and reexaminations for licensure and license renewal;

(3) Standards for the approval of educational programs required to qualify for licensure and continuing education programs required for license renewal;

(4) Continuing education courses and the number of hour requirements necessary for license renewal, in accordance with section 4761.06 of the Revised Code;

(5) Procedures for the issuance and renewal of licenses and limited permits;

(6) Procedures for the denial, suspension, permanent revocation, refusal to renew, and reinstatement of licenses and limited permits, the conduct of hearings, and the imposition of fines for engaging in conduct that is grounds for such action and hearings under section 4761.09 of the Revised Code;

(7) Standards of ethical conduct for the practice of respiratory care;

(8) Conditions under which the license renewal fee and continuing education requirements may be waived at the request of a licensee who is not in active practice;

(9) The respiratory care tasks that may be performed by an individual practicing as a polysomnographic technologist pursuant to division (B)(3) of section 4761.10 of the Revised Code;

(10) Procedures for registering out-of-state respiratory care providers authorized to practice in this state under division (A)(4) of section 4761.11 of the Revised Code.

(B) Determine the sufficiency of an applicant's qualifications for admission to the licensing examination or a reexamination, and for the issuance or renewal of a license or limited permit;

(C) Determine the respiratory care educational programs that are acceptable for fulfilling the requirements of division (A) of section 4761.04 of the Revised Code;

(D) Schedule, administer, and score the licensing examination or any reexamination for license renewal or reinstatement. The board shall administer the licensing examinations at least twice a year and notify applicants of the time and place of the examinations.

(E) Investigate complaints concerning alleged violations of section

761.10 of the Revised Code or grounds for the suspension, permanent revocation, or refusal to issue licenses or limited permits under section 2301.373 or 4761.09 of the Revised Code. The board shall employ investigators who shall, under the direction of the executive ~~secretary~~ director of the board, investigate complaints and make inspections and other inquiries as, in the judgment of the board, are appropriate to enforce sections 2301.373, 4761.09, and 4761.10 of the Revised Code. Pursuant to an investigation and inspection, the investigators may review and audit records during normal business hours at the place of business of a licensee or person who is the subject of a complaint filed with the board or at any place where the records are kept. ~~The~~

Except when required by court order, the board and its employees shall not disclose confidential information obtained during an investigation; except pursuant to a court order or identifying information about any person who files a complaint with the board.

The board may hear testimony in matters relating to the duties imposed upon it and issue subpoenas pursuant to an investigation. The president and secretary of the board may administer oaths.

(F) Conduct hearings, keep records of its proceedings, and do all such other things as are necessary and proper to carry out and enforce the provisions of this chapter;

(G) Maintain, publish, and make available upon request, for a fee not to exceed the actual cost of printing and mailing:

(1) The requirements for the issuance of licenses and limited permits under this chapter and rules adopted by the board;

(2) A current register of every person licensed to practice respiratory care in this state, to include the addresses of the person's last known place of business and residence, the effective date and identification number of the license, the name and location of the institution that granted the person's degree or certificate of completion of respiratory care educational requirements, and the date the degree or certificate was issued;

(3) A list of the names and locations of the institutions that each year granted degrees or certificates of completion in respiratory care;

(4) After the administration of each examination, a list of persons who passed the examination.

(H) Submit to the governor and to the general assembly each year a report of all of its official actions during the preceding year, together with any findings and recommendations with regard to the improvement of the profession of respiratory care.

Sec. 4761.031. The Ohio respiratory care board may share any

information it receives pursuant to an investigation conducted under division (E) of section 4761.03 of the Revised Code, including patient records and patient record information, with other licensing boards and governmental agencies that are investigating alleged professional misconduct and with law enforcement agencies and other governmental agencies that are investigating or prosecuting alleged criminal offenses. A board or agency that receives the information shall comply with the same requirements regarding confidentiality as those with which the Ohio respiratory care board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the board or agency that applies when the board or agency is dealing with other information in its possession. The information may be admitted into evidence in a criminal trial in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about persons whose confidentiality was protected by the Ohio respiratory care board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

Sec. 4761.04. (A) Except as provided in division (B) of this section, no person is eligible for licensure as a respiratory care professional unless ~~he~~ the person has shown, to the satisfaction of the Ohio respiratory care board ~~that~~, all of the following:

(1) ~~He~~ That the person is of good moral character;

(2) ~~He~~ That the person has successfully completed the requirements of an educational program approved by the board that includes instruction in the biological and physical sciences, pharmacology, respiratory care theory, procedures, and clinical practice, and cardiopulmonary rehabilitation techniques; ~~and~~

(3) ~~He~~ That the person has passed an examination administered by the board that tests the applicant's knowledge of the basic and clinical sciences relating to respiratory care theory and practice, professional skills and judgment in the utilization of respiratory care techniques, and such other subjects as the board considers useful in determining fitness to practice.

(B) The board may waive the requirements of division (A) of this section with respect to any applicant who presents proof of current licensure in another state whose standards for licensure are at least equal to those in effect in this state on the date of application. The board may waive the requirements of divisions (A)(2) and (3) of this section with respect to any applicant who presents proof ~~that he~~ of having successfully completed any

examination recognized by the board as meeting the requirements of division (A)(3) of this section.

Sec. 4761.05. (A) The Ohio respiratory care board shall issue a license to any applicant who complies with the requirements of section 4761.04 of the Revised Code, files the prescribed application form, and pays the fee or fees required under section 4761.07 of the Revised Code. The license entitles the holder to practice respiratory care. The licensee shall display the license in a conspicuous place at the licensee's principal place of business.

(B)(1) The board shall issue a limited permit to any applicant who meets the requirements of division (A)(1) of section 4761.04 of the Revised Code, files the prescribed application form, pays the fee required under section 4761.07 of the Revised Code, and meets either of the following requirements:

(a) Is enrolled in and is in good standing in a respiratory care educational program approved by the board that meets the requirements of division (A)(2) of section 4761.04 of the Revised Code leading to a degree or certificate of completion or is a graduate of the program;

(b) Is employed as a provider of respiratory care in this state and was employed as a provider of respiratory care in this state prior to March 14, 1989.

(2) The limited permit authorizes the holder to provide respiratory care under the supervision of a respiratory care professional. A person issued a limited permit under division (B)(1)(a) of this section may practice respiratory care under the limited permit for not more than the earliest of the following:

(a) Three years after the date the limited permit is issued;

(b) One year following the date of receipt of a certificate of completion from a board-approved respiratory care education program;

(c) Until the holder completes or discontinues participation in the educational program.

The board may extend the term of a limited permit in cases of unusual hardship. The holder seeking an extension shall petition the board in the form and manner prescribed by the board in rules adopted under section 4761.03 of the Revised Code. This division does not require a student enrolled in an educational program leading to a degree or certificate of completion in respiratory care approved by the board to obtain a limited permit to perform any duties that are part of the required course of study.

(3) A person issued a limited permit under division ~~(C)~~(B)(1)(b) of this section may practice under a limited permit for not more than three years, except that this restriction does not apply to a permit holder who, on March

14, 1989, has been employed as a provider of respiratory care for an average of not less than twenty-five hours per week for a period of not less than five years by a hospital ~~certified or accredited pursuant to section 3727.02 of the Revised Code.~~

~~(D)~~(C) All holders of licenses and limited permits issued under this section shall display, in a conspicuous place on their persons ~~the~~ information ~~as to~~ that identifies the type of authorization under which they practice.

Sec. 4761.06. (A) Each license to practice respiratory care shall be renewed biennially. Each limited permit to practice respiratory care shall be renewed annually. Each person holding a license or limited permit to practice respiratory care shall apply to the Ohio respiratory care board on the form and according to the schedule prescribed by the board for renewal of the license or limited permit. ~~Renewal of licenses~~ Licenses and limited permits shall be renewed in accordance with the standard renewal procedure of Chapter 4745. of the Revised Code. The board shall renew ~~the a~~ license upon the payment of the license renewal fee prescribed under section 4761.07 of the Revised Code and proof of satisfactory completion of the continuing education or reexamination requirements of division (B) of this section. The board shall renew a limited permit upon payment of the limited permit renewal fee prescribed under section 4761.07 of the Revised Code and submission of one of the following:

(1) If the limited permit was issued on the basis of division (B)(1)(a) of section 4761.05 of the Revised Code, proof acceptable to the board of enrollment and good standing in an educational program that meets the requirements of division (A)(2)~~(a)~~ of section 4761.04 of the Revised Code or of graduation from such a program;

(2) If the limited permit was issued on the basis of division (B)(1)(b) of section 4761.05 of the Revised Code, proof acceptable to the board of employment as a provider of respiratory care.

(B) On and after March 14, 1991, and every year thereafter, on or before the annual renewal date, the holder of a limited permit issued under division (B)(1)(b) of section 4761.05 of the Revised Code shall submit proof to the board that the holder has satisfactorily completed the number of hours of continuing education required by the board, which shall not be less than three nor more than ten hours of continuing education acceptable to the board.

On or before the biennial renewal date, ~~the a~~ license holder shall submit proof to the board that the license holder has satisfactorily completed the number of hours of continuing education required by the board, which shall

be not less than six nor more than twenty hours of continuing education acceptable to the board, or has passed a reexamination in accordance with the board's renewal requirements. The board may waive all or part of the continuing education requirement for a license holder who has held the license for less than two years.

Sec. 4761.07. (A) The Ohio respiratory care board shall charge any license applicant or holder who is to take an examination required under division (A)(3) of section 4761.04 or a reexamination required under division (B) of section 4761.06 of the Revised Code for license renewal or under section 4761.09 of the Revised Code for license reinstatement, a nonrefundable examination fee, not to exceed the amount necessary to cover the expense of administering the examination. The license applicant or holder shall pay the fee at the time of application for licensure or renewal.

(B) The board shall establish the following additional nonrefundable fees and penalty:

- (1) An initial license fee, not to exceed seventy-five dollars;
- (2) A biennial license renewal fee, not to exceed one hundred dollars;
- (3) A limited permit fee, not to exceed twenty dollars;
- (4) A limited permit renewal fee, not to exceed ten dollars;
- (5) A late renewal penalty, not to exceed fifty per cent of the renewal fee.

(C) Notwithstanding division (B)(4) of this section, after the third renewal of a limited permit that meets the exception in division ~~(C)~~(B)(3) of section 4761.05 of the Revised Code, the limited permit renewal fee shall be one-half the amount of the biennial license renewal fee established under division (B)(2) of this section and section 4761.08 of the Revised Code.

(D) The board shall adjust the fees biennially and within the limits established by division (B) of this section to provide sufficient revenues to meet its expenses.

(E) The board may, by rule, provide for the waiver of all or part of a license fee when the license is issued less than eighteen months before its expiration date.

(F) All fees received by the board shall be deposited into the state treasury to the credit of the occupational licensing and regulatory fund.

Sec. 4761.08. The Ohio respiratory care board, subject to the approval of the controlling board, may establish fees, except fees established at amounts adequate to cover designated expenses, in excess of the amounts provided in ~~sections 4761.01 to 4761.11 of the Revised Code~~ this chapter. The fees shall not exceed the amounts specified by more than fifty per cent.

Sec. 4761.09. (A) The Ohio respiratory care board may refuse to issue

or renew a license or a limited permit, may issue a reprimand, may suspend or permanently revoke a license or limited permit, or may place a license or limited permit holder on probation, on any of the following grounds:

(1) Conviction of a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense involving moral turpitude or of a felony, in which case a certified copy of the court record shall be conclusive evidence of the matter;

(2) Violating any provision of this chapter or an order or rule of the board;

(3) Assisting another person in that person's violation of any provision of this chapter or an order or rule of the board;

(4) Obtaining a license or limited permit by means of fraud, false or misleading representation, or concealment of material facts or making any other material misrepresentation to the board;

~~(4)~~(5) Being guilty of negligence or gross misconduct in the practice of respiratory care;

~~(5)~~(6) Violating the standards of ethical conduct adopted by the board, in the practice of respiratory care;

~~(6)~~(7) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public;

(8) Using any ~~controlled substance~~ dangerous drug, as defined in section 4729.01 of the Revised Code, or alcohol to the extent that ~~the~~ use impairs the ability to practice respiratory care at an acceptable level of competency;

~~(7)~~(9) Practicing respiratory care while mentally incompetent;

(10) Accepting commissions, rebates, or other forms of remuneration for patient referrals;

~~(8)~~(11) Practicing in an area of respiratory care for which the person is clearly untrained or incompetent or practicing without a licensed physician's prescription or supervision in a manner that conflicts with section 4761.17 of the Revised Code;

~~(9)~~(12) Employing, directing, or supervising a person who is not authorized to practice respiratory care under this chapter in the performance of respiratory care procedures;

~~(10)~~(13) Misrepresenting educational attainments or authorized functions for the purpose of obtaining some benefit related to the practice of respiratory care.

Before the board may take any action under this section, other than issuance of a summary suspension order under division (C) of this section, the executive ~~secretary~~ director of the board shall prepare and file written charges with the board, ~~which shall conduct a hearing on the charges in~~

~~accordance with.~~ Disciplinary actions taken by the board under this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no effect.

(B) If the board orders a license or limited permit holder placed on probation, the order shall be accompanied by a written statement of the conditions under which the person may be restored to practice.

The person may reapply to the board for original issuance of a license after one year following the date the license was denied.

A person may apply to the board for the reinstatement of a license or limited permit after one year following the date of suspension, ~~revocation~~, or refusal to renew. The board may accept or refuse the application for reinstatement and may require that the applicant pass a reexamination as a condition of eligibility for reinstatement.

(C) If the president and secretary of the board determine that there is clear and convincing evidence that a license or limited permit holder has committed an act that is grounds for board action under division (A) of this section and that continued practice by the license or permit holder presents a danger of immediate and serious harm to the public, the president and secretary may recommend that the board suspend the license or limited permit without a prior hearing. The president and secretary shall submit in writing to the board the allegations causing them to recommend the suspension.

On review of the allegations, the board, by a vote of not less than four of its members, may suspend a license or limited permit without a prior hearing. The board may review the allegations and vote on the suspension by a telephone conference call.

If the board votes to suspend a license or limited permit under this division, the board shall issue a written order of summary suspension to the license or limited permit holder in accordance with section 119.07 of the Revised Code. If the license or limited permit holder requests a hearing by the board, the board shall conduct the hearing in accordance with Chapter 119. of the Revised Code. Notwithstanding section 119.12 of the Revised Code, a court of common pleas shall not grant a suspension of the board's order of summary suspension pending determination of an appeal filed

under that section.

Any order of summary suspension issued under this division shall remain in effect until a final adjudication order issued by the board pursuant to division (A) of this section becomes effective. The board shall issue its final adjudication order regarding an order of summary suspension issued under this division not later than sixty days after completion of its hearing. Failure to issue the order within sixty days shall result in immediate dissolution of the suspension order, but shall not invalidate any subsequent, final adjudication order.

Sec. 4761.10. (A) No person shall offer or render respiratory care services, or ~~hold himself out as being~~ represent that the person is a respiratory care professional, respiratory therapist, respiratory technologist, respiratory care technician, respiratory practitioner, inhalation therapist, inhalation technologist, or inhalation therapy technician, or ~~as having to have~~ any similar title or ~~as providing to provide~~ these services under a similar description, unless the person holds a license or limited permit issued under this chapter. No partnership, association, or corporation shall advertise or otherwise offer to provide or convey the impression that it is providing respiratory care unless an individual holding a license or limited permit issued under this chapter is employed by or under contract ~~to~~ with the partnership, association, or corporation and will be performing the respiratory care services to which reference is made.

(B) Notwithstanding the provisions of this division, some (A) of this section, all of the following apply:

(1) In the case of a hospital or nursing facility, some limited aspects of respiratory care services such as measuring blood pressure and taking blood samples may ~~also be performed in a hospital meeting the operating standards of section 3727.02 of the Revised Code~~ by persons demonstrating current competence in such procedures, as long as the person acts under the direction of a physician ~~authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery or under the direction~~ delegation of a registered nurse ~~licensed under Chapter 4723. of the Revised Code, so long as such and the~~ person does not ~~hold himself out as being~~ represent that the person is engaged in the practice of respiratory care. The above limited aspects of respiratory care do not include any of the following: the administration of aerosol medication, the maintenance of patients on mechanical ventilators, aspiration, and the application and maintenance of artificial airways.

(B)(2) In the case of a facility, institution, or other setting that exists for a purpose substantially other than the provision of health care, if nursing

tasks are delegated by a registered nurse as provided in Chapter 4723. of the Revised Code and the rules adopted under it, respiratory care tasks may be performed under that delegation by persons demonstrating current competence in performing the tasks, as long as the person does not represent that the person is engaged in the practice of respiratory care.

(3) A polysomnographic technologist credentialed by an organization the Ohio respiratory care board recognizes, a trainee under the direct supervision of a polysomnographic technologist credentialed by an organization the board recognizes, or a person the board recognizes as being eligible to be credentialed as a polysomnographic technologist may perform the respiratory care tasks specified in rules adopted under section 4761.03 of the Revised Code, as long as both of the following apply:

(a) The tasks are performed in the diagnosis and therapeutic intervention of sleep-related breathing disorders and under the general supervision of a physician.

(b) The person performing the tasks does not represent that the person is engaged in the practice of respiratory care.

(C) If the Ohio respiratory care board finds that any person, including any partnership, association, or corporation, has engaged or is engaging in any activity or conduct that is prohibited under division (A) of this section or rules of the board, or that is grounds for the denial, suspension, or permanent revocation of a person's license under section 4761.09 of the Revised Code, it may apply to the court of common pleas in the county in which the violation occurred for an order restraining the unlawful activity or conduct, including the person's continued practice of respiratory care. Upon a showing that the person has violated such law or rule has been violated, or the person has engaged in conduct constituting such grounds, the court may issue an injunction or other appropriate restraining order.

Sec. 4761.11. (A) Nothing in this chapter shall be construed to prevent or restrict the practice, services, or activities of any person who:

(1) Is a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; is employed in the office of such a physician and who renders medical assistance under the physician's direct supervision but who does not hold himself out as being engaged in the profession of respiratory care; is a registered nurse licensed under Chapter 4723. of the Revised Code; or is any other health care professional licensed by this state, practicing within providing respiratory care services included in the scope of practice established by the license held, but who does not hold himself out as being long as the person does not represent that the person is engaged in the

practice of respiratory care;

(2) Is employed as a respiratory care professional by an agency of the United States government and provides respiratory care solely under the direction or control of the employing agency;

(3) Is a student enrolled in a board-approved respiratory care education program leading to a certificate of completion in respiratory care and is performing duties that are part of a supervised course of study;

(4) Is a nonresident of this state practicing or offering to practice respiratory care, if the respiratory care services are offered for not more than ~~one hundred twenty calendar~~ thirty days in a year, services are provided under the supervision of a respiratory care professional licensed under this chapter, and the nonresident Registers with the board in accordance with rules adopted by the board under section 4761.03 of the Revised Code and meets either of the following requirements:

(a) Qualifies for licensure under this chapter, except for passage of the examination required under division (A)(3) of section 4761.04 of the Revised Code;

(b) Holds a valid license issued by a state that has licensure requirements considered by the board to be comparable to those of this state and has not been issued a license in another state that has been revoked or is currently under suspension or on probation.

(5) Provides respiratory care only to relatives or in medical emergencies;

(6) Provides gratuitous care to friends or personal family members;

(7) Provides only self care;

(8) ~~Holds a current, valid certificate under section 4765.30 of the Revised Code as an emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic~~ is employed in the office of a physician and renders medical assistance under the physician's direct supervision without representing that the person is engaged in the practice of respiratory care;

(9) Is employed in a clinical chemistry or arterial blood gas laboratory and is supervised by a physician ~~authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery~~ without representing that the person is engaged in the practice of respiratory care;

(10) ~~Provides limited aspects of respiratory care pursuant to division (A) of section 4761.10 of the Revised Code in a hospital meeting the operating standards of section 3727.02 of the Revised Code under the direction of a physician authorized under Chapter 4731. of the Revised Code to practice~~

~~medicine and surgery or osteopathic medicine and surgery or of a registered nurse licensed under Chapter 4723. of the Revised Code so long as such person does not hold himself out as being engaged in the practice of respiratory care~~ is engaged in the practice of respiratory care as an employee of a person or governmental entity located in another state and provides respiratory care services for less than seventy-two hours to patients being transported into, out of, or through this state.

(B) Nothing in this chapter shall be construed to prevent any person ~~licensed under Chapter 4723. of the Revised Code, any person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery, or any association, corporation, or partnership,~~ from advertising, describing, or offering to provide respiratory care, or billing for respiratory care ~~if~~ when the respiratory care services are provided by a ~~person licensed under Chapter 4723. of the Revised Code and health care professional licensed by this state practicing within the scope of practice established by that~~ the license ~~or by a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery~~ Held. Nothing in this chapter shall be construed to prevent a hospital ~~meeting the operating standards of section 3727.02 of the Revised Code or nursing facility~~ from advertising, describing, or offering to provide respiratory care, or billing for respiratory care ~~if the services are~~ rendered by a person licensed under this chapter or persons who may provide ~~those~~ limited aspects of respiratory care or respiratory care tasks pursuant to division (A)(B) of section 4761.10 of the Revised Code ~~by or under the direction of a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery or by or under the direction of a registered nurse licensed under Chapter 4723. of the Revised Code.~~

(C) Notwithstanding division (A) of section 4761.10 of the Revised Code, in a life-threatening situation, in the absence of licensed personnel, unlicensed persons shall not be prohibited from taking life-saving measures.

~~(C)(D)~~ (D) Nothing in this chapter shall be construed as authorizing a respiratory care professional to practice medicine and surgery or osteopathic medicine and surgery. This division does not prohibit a respiratory care professional from administering topical or intradermal medications for the purpose of producing localized decreased sensation as part of a procedure or task that is within the scope of practice of a respiratory care professional.

Sec. 4761.13. (A) As used in this section, "prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(B) The prosecutor in any case against any respiratory care professional

or an individual holding a limited permit issued under this chapter shall promptly notify the Ohio respiratory care board of any of the following:

(1) A plea of guilty to, or a finding of guilt by a jury or court of, a felony, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a felony charge;

(2) A plea of guilty to, or a finding of guilt by a jury or court of, a misdemeanor committed in the course of practice, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor, if the alleged act was committed in the course of practice;

(3) A plea of guilty to, or a finding of guilt by a jury or court of, a misdemeanor involving moral turpitude, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor involving moral turpitude.

(C) The report shall include the name and address of the respiratory care professional or person holding a limited permit, the nature of the offense for which the action was taken, and the certified court documents recording the action. The board may prescribe and provide forms for prosecutors to make reports under this section. The form may be the same as the form required to be provided under section 2929.24 of the Revised Code.

Sec. 4761.14. An employer that disciplines or terminates the employment of a respiratory care professional or individual holding a limited permit issued under this chapter because of conduct that would be grounds for disciplinary action under section 4761.09 of the Revised Code shall report the action to the Ohio respiratory care board. The report shall state the name of the respiratory care professional or individual holding the limited permit and the reason the employer took the action. If an employer fails to report to the board, the board may seek an order from a court of competent jurisdiction compelling submission of the report.

Sec. 4761.15. In the absence of fraud or bad faith, no person shall be subject to any civil action or liable for damages as a result of making a report to the Ohio respiratory care board or testifying in an adjudication conducted under Chapter 119. of the Revised Code with regard to alleged matters for which disciplinary action may be taken under section 4761.09 of the Revised Code or the qualifications, fitness, or character of a person licensed or holding a limited permit or applying for a license or limited permit under this chapter.

Sec. 4761.16. In the absence of fraud or bad faith, the Ohio respiratory care board, a current or former board member, an agent of the board, a person formally asked by the board to be the board's representative, or an

employee of the board shall not be held liable in damages to any person as the result of any act, omission, proceeding, conduct, or decision related to official duties undertaken or performed pursuant to this chapter. If any of those persons asks to be defended by the state against any claim or action arising out of any act, omission, proceeding, conduct, or decision related to the person's official duties, and the request is made in writing at a reasonable time before trial and the person requesting defense cooperates in good faith in the defense of the claim or action, the state shall provide and pay for the person's defense and shall pay any resulting judgment, compromise, or settlement. At no time shall the state pay any part of a claim or judgment that is for punitive or exemplary damages.

Sec. 4761.17. All of the following apply to the practice of respiratory care by a person who holds a license or limited permit issued under this chapter:

(A) The person shall practice only pursuant to a prescription or other order for respiratory care issued by a physician or by a registered nurse who holds a certificate of authority issued under Chapter 4723, of the Revised Code to practice as a certified nurse practitioner or clinical nurse specialist and has entered into a standard care arrangement with a physician that allows the nurse to prescribe or order respiratory care services.

(B) The person shall practice only under the supervision of a physician or under the supervision of A certified nurse practitioner or clinical nurse specialist who is authorized to prescribe or order respiratory care services as provided in division (A) of this section.

(C) When practicing under the prescription or order of a certified nurse practitioner or clinical nurse specialist or under the supervision of such a nurse, the person's administration of medication that requires a prescription is limited to the drugs that the nurse is authorized to prescribe pursuant to the nurse's certificate to prescribe issued under section 4723.48 of the Revised Code.

SECTION 2. That existing sections 4761.01, 4761.02, 4761.03, 4761.04, 4761.05, 4761.06, 4761.07, 4761.08, 4761.09, 4761.10, and 4761.11 of the Revised Code are hereby repealed.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____