

As Introduced

**131st General Assembly
Regular Session
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H. B. No. 266

Representative Schuring

A BILL

To amend sections 4730.09, 4761.01, 4761.03, 1
4761.04, 4761.05, 4761.06, 4761.07, 4761.09, 2
4761.11, and 4761.17 of the Revised Code to 3
modify the laws governing respiratory care 4
professionals. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4730.09, 4761.01, 4761.03, 6
4761.04, 4761.05, 4761.06, 4761.07, 4761.09, 4761.11, and 7
4761.17 of the Revised Code be amended to read as follows: 8

Sec. 4730.09. (A) Under a physician supervisory plan 9
approved under section 4730.17 of the Revised Code, a physician 10
assistant may provide any or all of the following services 11
without approval by the state medical board as special services: 12

(1) Obtaining comprehensive patient histories; 13

(2) Performing physical examinations, including audiometry 14
screening, routine visual screening, and pelvic, rectal, and 15
genital-urinary examinations, when indicated; 16

(3) Ordering, performing, or ordering and performing 17
routine diagnostic procedures, as indicated; 18

(4) Identifying normal and abnormal findings on histories, physical examinations, and commonly performed diagnostic studies;	19 20 21
(5) Assessing patients and developing and implementing treatment plans for patients;	22 23
(6) Monitoring the effectiveness of therapeutic interventions;	24 25
(7) Exercising physician-delegated prescriptive authority pursuant to a certificate to prescribe issued under this chapter;	26 27 28
(8) Carrying out or relaying the supervising physician's orders for the administration of medication, to the extent permitted by law;	29 30 31
(9) Providing patient education;	32
(10) Instituting and changing orders on patient charts;	33
(11) Performing developmental screening examinations on children with regard to neurological, motor, and mental functions;	34 35 36
(12) Performing wound care management, suturing minor lacerations and removing the sutures, and incision and drainage of uncomplicated superficial abscesses;	37 38 39
(13) Removing superficial foreign bodies;	40
(14) Administering intravenous fluids;	41
(15) Inserting a foley or cudae catheter into the urinary bladder and removing the catheter;	42 43
(16) Performing biopsies of superficial lesions;	44

(17) Making appropriate referrals as directed by the supervising physician;	45 46
(18) Performing penile duplex ultrasound;	47
(19) Changing of a tracheostomy;	48
(20) Performing bone marrow aspirations from the posterior iliac crest;	49 50
(21) Performing bone marrow biopsies from the posterior iliac crest;	51 52
(22) Performing cystograms;	53
(23) Performing nephrostograms after physician placement of nephrostomy tubes;	54 55
(24) Fitting, inserting, or removing birth control devices;	56 57
(25) Removing cervical polyps;	58
(26) Performing nerve conduction testing;	59
(27) Performing endometrial biopsies;	60
(28) Inserting filiform and follower catheters;	61
(29) Performing arthrocentesis of the knee;	62
(30) Performing knee joint injections;	63
(31) Performing endotracheal intubation with successful completion of an advanced cardiac life support course;	64 65
(32) Performing lumbar punctures;	66
(33) In accordance with rules adopted by the board, using light-based medical devices for the purpose of hair removal;	67 68

(34) Administering, monitoring, or maintaining local anesthesia, as defined in section 4730.091 of the Revised Code;	69 70
(35) Applying or removing a cast or splint;	71
(36) Inserting or removing chest tubes;	72
(37) Prescribing physical therapy or referring a patient to a physical therapist for the purpose of receiving physical therapy;	73 74 75
(38) Ordering occupational therapy or referring a patient to an occupational therapist for the purpose of receiving occupational therapy;	76 77 78
(39) <u>Prescribing or ordering respiratory care or referring a patient to a respiratory care professional for the purpose of receiving respiratory care;</u>	79 80 81
<u>(40)</u> Taking any action that may be taken by an attending physician under sections 2133.21 to 2133.26 of the Revised Code, as specified in section 2133.211 of the Revised Code;	82 83 84
(40) <u>(41)</u> Determining and pronouncing death in accordance with section 4730.092 of the Revised Code;	85 86
(41) <u>(42)</u> Admitting patients to hospitals in accordance with section 3727.06 of the Revised Code;	87 88
(42) <u>(43)</u> Performing other services that are within the supervising physician's normal course of practice and expertise, if the services are included in any model physician supervisory plan approved under section 4730.06 of the Revised Code or the services are designated by the board by rule or other means as services that are not subject to approval as special services.	89 90 91 92 93 94
(B) Under the policies of a health care facility, the	95

services a physician assistant may provide are limited to the 96
services the facility has authorized the physician assistant to 97
provide for the facility. The services a health care facility 98
may authorize a physician assistant to provide for the facility 99
include the following: 100

(1) Any or all of the services specified in division (A) 101
of this section; 102

(2) Assisting in surgery in the health care facility; 103

(3) Any other services permitted by the policies of the 104
health care facility, except that the facility may not authorize 105
a physician assistant to perform a service that is prohibited by 106
this chapter. 107

Sec. 4761.01. As used in this chapter: 108

(A) "Respiratory care" means rendering or offering to 109
render to individuals, groups, organizations, or the public any 110
service involving the evaluation of cardiopulmonary function, 111
the treatment of cardiopulmonary impairment, the assessment of 112
treatment effectiveness, and the care of patients with 113
deficiencies and abnormalities associated with the 114
cardiopulmonary system. The practice of respiratory care 115
includes: 116

(1) Obtaining, analyzing, testing, measuring, and 117
monitoring blood and gas samples in the determination of 118
cardiopulmonary parameters and related physiologic data, 119
including flows, pressures, and volumes, and the use of 120
equipment employed for this purpose; 121

(2) Administering, monitoring, recording the results of, 122
and instructing in the use of medical gases, aerosols, and 123
bronchopulmonary hygiene techniques, including drainage, 124

aspiration, and sampling, and applying, maintaining, and 125
instructing in the use of artificial airways, ventilators, and 126
other life support equipment employed in the treatment of 127
cardiopulmonary impairment and provided in collaboration with 128
other licensed health care professionals responsible for 129
providing care; 130

(3) Performing cardiopulmonary resuscitation and 131
respiratory rehabilitation techniques; 132

(4) Administering medications for the testing or treatment 133
of cardiopulmonary impairment. 134

(B) "Respiratory care professional" means a person who is 135
licensed under this chapter to practice the full range of 136
respiratory care services as defined in division (A) of this 137
section. 138

(C) "Physician" means an individual authorized under 139
Chapter 4731. of the Revised Code to practice medicine and 140
surgery or osteopathic medicine and surgery. 141

(D) "Registered nurse" means an individual licensed under 142
Chapter 4723. of the Revised Code to engage in the practice of 143
nursing as a registered nurse. 144

(E) "Hospital" means a facility that meets the operating 145
standards of section 3727.02 of the Revised Code. 146

(F) "Nursing facility" has the same meaning as in section 147
5165.01 of the Revised Code. 148

(G) "Nursing home" has the same meaning as in section 149
3721.01 of the Revised Code. 150

(H) "Dangerous drug" has the same meaning as in section 151
4729.01 of the Revised Code. 152

(I) "Certified hyperbaric technologist" means a person who 153
administers hyperbaric oxygen therapy and is certified as a 154
hyperbaric technologist by the national board of diving and 155
hyperbaric medical technology or its successor organization. 156

~~(H)~~(J) "Hyperbaric oxygen therapy" means the 157
administration of pure oxygen in a pressurized room or chamber, 158
except that it does not include ventilator management. 159

~~(I)~~(K) "Advanced practice registered nurse" has the same 160
meaning as in section 4723.01 of the Revised Code. 161

~~(J)~~(L) "Physician assistant" means an individual who 162
holds a valid certificate to practice issued under Chapter 4730. 163
of the Revised Code authorizing the individual to provide 164
services as a physician assistant to patients under the 165
supervision, control, and direction of one or more physicians. 166

Sec. 4761.03. The Ohio respiratory care board shall 167
regulate the practice of respiratory care in this state and the 168
persons to whom the board issues licenses and limited permits 169
under this chapter and shall license and register home medical 170
equipment services providers under Chapter 4752. of the Revised 171
Code. Rules adopted under this chapter that deal with the 172
provision of respiratory care in a hospital, other than rules 173
regulating the issuance of licenses or limited permits, shall be 174
consistent with the conditions for participation under medicare, 175
Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 176
42 ~~U.S.C.A.~~U.S.C. 1395, as amended, and with the respiratory 177
care accreditation standards of the joint commission ~~on~~ 178
~~accreditation of healthcare organizations~~ or the American 179
osteopathic association. 180

(A) The board shall~~+~~ 181

(A) Adopt <u>adopt</u> , and may rescind or amend, rules in	182
accordance with Chapter 119. of the Revised Code to carry out	183
the purposes of this chapter, including rules prescribing:	184
(1) The form and manner for filing applications for	185
licensure and renewal, limited permits, and limited permit	186
extensions under sections 4761.05 and 4761.06 of the Revised	187
Code;	188
(2) The form, scoring, and scheduling of examinations and	189
reexaminations <u>administered by the board for licensure</u> and , <u></u>	190
<u>license renewal, and license reinstatement or standards for the</u>	191
<u>board's recognition of examinations administered by state or</u>	192
<u>national organizations;</u>	193
(3) Standards for the approval of educational programs	194
required to qualify for licensure and continuing education	195
programs required for license renewal;	196
(4) Continuing education courses and the number of hour	197
requirements necessary for license renewal, in accordance with	198
section 4761.06 of the Revised Code;	199
(5) Procedures for the issuance and renewal of licenses	200
and limited permits, including the duties that may be fulfilled	201
by the board's executive director and other board employees;	202
(6) Procedures for the denial, suspension, permanent	203
revocation, refusal to renew, and reinstatement of licenses and	204
limited permits, the conduct of hearings, and the imposition of	205
fines for engaging in conduct that is grounds for such action	206
and hearings under section 4761.09 of the Revised Code;	207
(7) Standards of ethical conduct for the practice of	208
respiratory care;	209

(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;	210 211 212
(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;	213 214 215 216
(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;	217 218 219
(11) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code;	220 221
(12) Procedures for accepting and storing copies of hyperbaric technologist certifications filed with the board pursuant to division (A) (11) of section 4761.11 of the Revised Code;	222 223 224 225
<u>(13) Standards to be followed by a hospital or nursing home in developing a protocol for purposes of section 4761.17 of the Revised Code;</u>	226 227 228
<u>(14) Conditions that must be met to be considered in good standing in a board-approved respiratory care educational program.</u>	229 230 231
(B) Determine <u>The board shall determine</u> 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 r .	232 233 234 235
(C) Determine <u>The board shall determine</u> the respiratory care educational programs that are acceptable for fulfilling the	236 237

requirements of division (A) of section 4761.04 of the Revised Code~~+~~. 238
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(D) ~~Schedule~~ The board shall schedule, administer, and 240
score the licensing examination or any reexamination for license 241
renewal or reinstatement or, for use as the licensing 242
examination or any reexamination for license renewal or 243
reinstatement, recognize one or more examinations that meet the 244
standards prescribed by the board in rules adopted under this 245
section and are administered by state or national organizations. 246
~~The~~ If the board shall administer ~~administers~~ the licensing 247
~~examinations~~ examination, it shall be administered at least 248
twice a year and the board shall notify applicants of the time 249
and place of the examinations. 250

(E) ~~Investigate~~ The board shall investigate complaints 251
concerning alleged violations of section 4761.10 of the Revised 252
Code or grounds for the suspension, permanent revocation, or 253
refusal to issue licenses or limited permits under section 254
3123.47 or 4761.09 of the Revised Code. The board shall employ 255
investigators who shall, under the direction of the executive 256
director of the board, investigate complaints and make 257
inspections and other inquiries as, in the judgment of the 258
board, are appropriate to enforce sections 3123.41 to 3123.50, 259
4761.09, and 4761.10 of the Revised Code. Pursuant to an 260
investigation and inspection, the investigators may review and 261
audit records during normal business hours at the place of 262
business of a licensee or person who is the subject of a 263
complaint filed with the board or at any place where the records 264
are kept. 265

Except when required by court order, the board and its 266
employees shall not disclose confidential information obtained 267

during an investigation or identifying information about any 268
person who files a complaint with the board. 269

The board may hear testimony in matters relating to the 270
duties imposed upon it and issue subpoenas pursuant to an 271
investigation. The president and secretary of the board may 272
administer oaths. 273

(F) ~~Conduct~~ The board shall conduct hearings, keep records 274
of its proceedings, and do other things as are necessary and 275
proper to carry out and enforce the provisions of this chapter. 276

(G) ~~Maintain~~ The board shall maintain, publish, and make 277
available upon request, for a fee not to exceed the actual cost 278
of printing and mailing: 279

(1) The requirements for the issuance of licenses and 280
limited permits under this chapter and rules adopted by the 281
board; 282

(2) A current register of every person licensed to 283
practice respiratory care in this state, to include the 284
addresses of the person's last known place of business and 285
residence, the effective date and identification number of the 286
license, the name and location of the institution that granted 287
the person's degree or certificate of completion of respiratory 288
care educational requirements, and the date the degree or 289
certificate was issued; 290

(3) A list of the names and locations of the institutions 291
that each year granted degrees or certificates of completion in 292
respiratory care; 293

(4) After the administration of each examination, a list 294
of persons who passed the examination. 295

(H) ~~Submit~~The board shall submit to the governor and to 296
the general assembly each year a report of all of its official 297
actions during the preceding year, together with any findings 298
and recommendations with regard to the improvement of the 299
profession of respiratory care~~r~~. 300

(I) ~~Administer~~The board shall administer and enforce 301
Chapter 4752. of the Revised Code. 302

Sec. 4761.04. (A) Except as provided in division (B) of 303
this section, no person is eligible for licensure as a 304
respiratory care professional unless the person has shown, to 305
the satisfaction of the Ohio respiratory care board, all of the 306
following: 307

(1) That the person is of good moral character; 308

(2) That the person has successfully completed the 309
requirements of an educational program approved by the board 310
that includes instruction in the biological and physical 311
sciences, pharmacology, respiratory care theory, procedures, and 312
clinical practice, and cardiopulmonary rehabilitation 313
techniques; 314

(3) That the person has passed an examination administered 315
by the board that tests the applicant's knowledge of the basic 316
and clinical sciences relating to respiratory care theory and 317
practice, professional skills and judgment in the utilization of 318
respiratory care techniques, and such other subjects as the 319
board considers useful in determining fitness to practice. 320

(B) The board may waive the requirements of division (A) 321
of this section with respect to any applicant who presents proof 322
of current licensure in another state whose standards for 323
licensure are at least equal to those in effect in this state on 324

the date of application. The board may waive the requirements of 325
divisions (A) (2) and (3) of this section with respect to any 326
applicant who presents proof of having successfully completed 327
~~any a licensing examination administered by a state or national~~ 328
organization recognized by the board as meeting an examination 329
that meets the requirements of division (A) (3) of this section 330
and the standards for recognition prescribed by the board in 331
rules adopted under section 4761.03 of the Revised Code. 332

Sec. 4761.05. (A) The Ohio respiratory care board shall 333
issue a license to any applicant who complies with the 334
requirements of section 4761.04 of the Revised Code, files the 335
prescribed application form, and pays the fee or fees required 336
under section 4761.07 of the Revised Code. The license entitles 337
the holder to practice respiratory care. The licensee shall 338
display the license in a conspicuous place at the licensee's 339
principal place of business. 340

(B) (1) The board shall issue a limited permit to any 341
applicant who meets the requirements of division (A) (1) of 342
section 4761.04 of the Revised Code, files the prescribed 343
application form, pays the fee required under section 4761.07 of 344
the Revised Code, and meets either of the following 345
requirements: 346

(a) Is enrolled in and is meets the conditions prescribed 347
by the board in rules adopted under section 4761.03 of the 348
Revised Code to be considered in good standing in a respiratory 349
care educational program approved by the board that meets the 350
requirements of division (A) (2) of section 4761.04 of the 351
Revised Code leading to a degree or certificate of completion, 352
~~or is a graduate of~~ has received a degree or certificate of 353
completion from the program; 354

(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~~ until 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 degree or certificate of completion from a board-approved respiratory care education program;

(c) ~~Until~~ The date that the holder discontinues participation ~~chooses to discontinue enrollment in, or is expelled from, the~~ a board-approved respiratory care educational program prior to receiving a degree or certificate of completion;

(d) The date that the holder no longer meets the conditions prescribed by the board in rules adopted under section 4761.03 of the Revised Code to be considered in good standing in a board-approved respiratory care 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 384
completion in respiratory care approved by the board to obtain a 385
limited permit to perform any duties that are part of the 386
required course of study. 387

(3) A person issued a limited permit under division (B) (1) 388
(b) of this section may practice under a limited permit for not 389
more than three years, except that this restriction does not 390
apply to a permit holder who, on March 14, 1989, has been 391
employed as a provider of respiratory care for an average of not 392
less than twenty-five hours per week for a period of not less 393
than five years by a hospital. 394

(C) All holders of licenses and limited permits issued 395
under this section shall display, in a conspicuous place on 396
their persons, information that identifies the type of 397
authorization under which they practice. 398

Sec. 4761.06. (A) Each license to practice respiratory 399
care shall be renewed biennially. Each limited permit to 400
practice respiratory care shall be renewed annually. Each person 401
holding a license or limited permit to practice respiratory care 402
shall apply to the Ohio respiratory care board on the form and 403
according to the schedule prescribed by the board for renewal of 404
the license or limited permit. Licenses and limited permits 405
shall be renewed in accordance with the standard renewal 406
procedure of Chapter 4745. of the Revised Code. The board shall 407
renew a license upon the payment of the license renewal fee 408
prescribed under section 4761.07 of the Revised Code and proof 409
of satisfactory completion of the continuing education or 410
reexamination requirements of division (B) of this section. The 411
board shall renew a limited permit upon payment of the limited 412
permit renewal fee prescribed under section 4761.07 of the 413

Revised Code and submission of one of the following: 414

(1) If the limited permit was issued on the basis of 415
division (B) (1) (a) of section 4761.05 of the Revised Code, proof 416
acceptable to the board of ~~enrollment~~being enrolled in and 417
meeting the conditions prescribed by the board in rules adopted 418
under section 4761.03 of the Revised Code to be considered in 419
good standing in an educational program that meets the 420
requirements of division (A) (2) of section 4761.04 of the 421
Revised Code or of ~~graduation~~receipt of a degree or 422
certification of completion from such a program; 423

(2) If the limited permit was issued on the basis of 424
division (B) (1) (b) of section 4761.05 of the Revised Code, proof 425
acceptable to the board of employment as a provider of 426
respiratory care. 427

(B) On and after March 14, 1991, and every year 428
thereafter, on or before the annual renewal date, the holder of 429
a limited permit issued under division (B) (1) (b) of section 430
4761.05 of the Revised Code shall submit proof to the board that 431
the holder has satisfactorily completed the number of hours of 432
continuing education required by the board, which shall not be 433
less than three nor more than ten hours of continuing education 434
acceptable to the board. 435

On or before the biennial renewal date, a license holder 436
shall submit proof to the board that the license holder has 437
satisfactorily completed the number of hours of continuing 438
education required by the board, which shall be not less than 439
six nor more than twenty hours of continuing education 440
acceptable to the board, or has passed a reexamination in 441
accordance with the board's renewal requirements. The board may 442
waive all or part of the continuing education requirement for a 443

license holder who has held the license for less than two years. 444

Sec. 4761.07. (A) ~~The~~ (1) Except as provided in division 445
(A) (2) of this section, the Ohio respiratory care board shall 446
charge any license applicant or holder who is to take an 447
examination required under division (A) (3) of section 4761.04 or 448
a reexamination required under division (B) of section 4761.06 449
of the Revised Code for license renewal or under section 4761.09 450
of the Revised Code for license reinstatement, a nonrefundable 451
examination fee, not to exceed the amount necessary to cover the 452
expense of administering the examination. The license applicant 453
or holder shall pay the fee at the time of application for 454
licensure ~~or,~~ renewal, or reinstatement. 455

(2) The examination fees described in division (A) (1) of 456
this section shall not be charged if the board recognizes for 457
use as the licensing examination or the reexamination for 458
license renewal or reinstatement one or more examinations that 459
meet the standards prescribed by the board in rules adopted 460
under section 4761.03 of the Revised Code and are administered 461
by state or national organizations. 462

(B) The board shall establish the following additional 463
nonrefundable fees and penalty: 464

(1) An initial license fee, not to exceed seventy-five 465
dollars; 466

(2) A biennial license renewal fee, not to exceed one 467
hundred dollars; 468

(3) A limited permit fee, not to exceed twenty dollars; 469

(4) A limited permit renewal fee, not to exceed ten 470
dollars; 471

(5) A late renewal penalty, not to exceed fifty per cent 472
of the renewal fee; 473

(6) A fee for accepting and storing hyperbaric 474
technologist certifications filed with the board under division 475
(A) (11) of section 4761.11 of the Revised Code, not to exceed 476
twenty dollars. 477

(C) Notwithstanding division (B) (4) of this section, after 478
the third renewal of a limited permit that meets the exception 479
in division (B) (3) of section 4761.05 of the Revised Code, the 480
limited permit renewal fee shall be one-half the amount of the 481
biennial license renewal fee established under division (B) (2) 482
of this section and section 4761.08 of the Revised Code. 483

(D) The board shall adjust the fees biennially and within 484
the limits established by division (B) of this section to 485
provide sufficient revenues to meet its expenses. 486

(E) The board may, by rule, provide for the waiver of all 487
or part of a license fee when the license is issued less than 488
eighteen months before its expiration date. 489

(F) All fees received by the board shall be deposited into 490
the state treasury to the credit of the occupational licensing 491
and regulatory fund. 492

Sec. 4761.09. (A) The Ohio respiratory care board may 493
refuse to issue or renew a license or a limited permit, may 494
issue a reprimand, may suspend or permanently revoke a license 495
or limited permit, or may place a license or limited permit 496
holder on probation, on any of the following grounds: 497

(1) A plea of guilty to, a judicial finding of guilt of, 498
or a judicial finding of eligibility for intervention in lieu of 499
conviction for an offense involving moral turpitude or of a 500

- felony, in which case a certified copy of the court record shall 501
be conclusive evidence of the matter; 502
- (2) Violating any provision of this chapter or an order or 503
rule of the board; 504
- (3) Assisting another person in that person's violation of 505
any provision of this chapter or an order or rule of the board; 506
- (4) Obtaining a license or limited permit by means of 507
fraud, false or misleading representation, or concealment of 508
material facts or making any other material misrepresentation to 509
the board; 510
- (5) Being guilty of negligence or gross misconduct in the 511
practice of respiratory care; 512
- (6) Violating the standards of ethical conduct adopted by 513
the board, in the practice of respiratory care; 514
- (7) Engaging in dishonorable, unethical, or unprofessional 515
conduct of a character likely to deceive, defraud, or harm the 516
public; 517
- (8) ~~Using~~ Practicing or being present with an intent to 518
practice respiratory care while showing signs of impairment from 519
being under the influence of any dangerous drug, as defined in 520
section 4729.01 of the Revised Code, or alcohol to the extent 521
that the use impairs the ability to practice respiratory care at 522
an acceptable level of competency; 523
- (9) Self-administering or otherwise taking into the body 524
any dangerous drug in any way that is not in accordance with a 525
legal, valid prescription issued for that individual, or self- 526
administering or otherwise taking into the body any drug that is 527
a schedule I controlled substance; 528

(10) Habitual or excessive use of controlled substances, alcohol, or other habit-forming drugs or chemical substances to the extent that the use impairs the individual's ability to provide safe respiratory care; 529
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(11) Practicing respiratory care while mentally incompetent; 533
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~~(10)~~(12) Accepting commissions, rebates, or other forms of remuneration for patient referrals; 535
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~~(11)~~(13) Practicing in an area of respiratory care for which the person is clearly untrained or incompetent or practicing in a manner that conflicts with section 4761.17 of the Revised Code; 537
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~~(12)~~(14) Employing, directing, or supervising a person who is not authorized to practice respiratory care under this chapter in the performance of respiratory care procedures; 541
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~~(13)~~(15) Misrepresenting educational attainments or authorized functions for the purpose of obtaining some benefit related to the practice of respiratory care; 544
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~~(14)~~(16) Assisting suicide as defined in section 3795.01 of the Revised Code; 547
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(17) Denial, revocation, suspension, or restriction of authority to engage in a licensed profession or practice a health care occupation, including respiratory care, in this state or any other state or jurisdiction for any reason other than failure to renew. 549
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Before the board may take any action under this section, 554
other than issuance of a summary suspension order under division 555
(C) of this section, the executive director of the board shall 556

prepare and file written charges with the board. Disciplinary 557
actions taken by the board under this section shall be taken 558
pursuant to an adjudication under Chapter 119. of the Revised 559
Code, except that in lieu of an adjudication, the board may 560
enter into a consent agreement to resolve an allegation of a 561
violation of this chapter or any rule adopted under it. A 562
consent agreement, when ratified by the board, shall constitute 563
the findings and order of the board with respect to the matter 564
addressed in the agreement. If the board refuses to ratify a 565
consent agreement, the admissions and findings contained in the 566
consent agreement shall be of no effect. 567

(B) If the board orders a license or limited permit holder 568
placed on probation, the order shall be accompanied by a written 569
statement of the conditions under which the person may be 570
restored to practice. 571

The person may reapply to the board for original issuance 572
of a license after one year following the date the license was 573
denied. 574

A person may apply to the board for the reinstatement of a 575
license or limited permit after one year following the date of 576
suspension or refusal to renew. The board may accept or refuse 577
the application for reinstatement and may require that the 578
applicant pass a reexamination as a condition of eligibility for 579
reinstatement. 580

(C) If the president and secretary of the board determine 581
that there is clear and convincing evidence that a license or 582
limited permit holder has committed an act that is grounds for 583
board action under division (A) of this section and that 584
continued practice by the license or permit holder presents a 585
danger of immediate and serious harm to the public, the 586

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 seven 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. 4761.11. (A) Nothing in this chapter shall be construed to prevent or restrict the practice, services, or

activities of any person who: 617

(1) Is a health care professional licensed by this state 618
providing respiratory care services included in the scope of 619
practice established by the license held, as long as the person 620
does not represent that the person is engaged in the practice of 621
respiratory care; 622

(2) Is employed as a respiratory care professional by an 623
agency of the United States government and provides respiratory 624
care solely under the direction or control of the employing 625
agency; 626

(3) Is a student enrolled in a board-approved respiratory 627
care education program leading to a degree or certificate of 628
completion in respiratory care and is performing duties that are 629
part of a supervised course of study; 630

(4) Is a nonresident of this state practicing or offering 631
to practice respiratory care, if the respiratory care services 632
are offered for not more than thirty days in a year, services 633
are provided under the supervision of a respiratory care 634
professional licensed under this chapter, and the nonresident 635
registers with the board in accordance with rules adopted by the 636
board under section 4761.03 of the Revised Code and meets either 637
of the following requirements: 638

(a) Qualifies for licensure under this chapter, except for 639
passage of the examination required under division (A) (3) of 640
section 4761.04 of the Revised Code; 641

(b) Holds a valid license issued by a state that has 642
licensure requirements considered by the board to be comparable 643
to those of this state and has not been issued a license in 644
another state that has been revoked or is currently under 645

suspension or on probation. 646

(5) Provides respiratory care only to relatives or in 647
medical emergencies; 648

(6) Provides gratuitous care to friends or personal family 649
members; 650

(7) Provides only self care; 651

(8) Is employed in the office of a physician and renders 652
medical assistance under the physician's direct supervision 653
without representing that the person is engaged in the practice 654
of respiratory care; 655

(9) Is employed in a clinical chemistry or arterial blood 656
gas laboratory and is supervised by a physician without 657
representing that the person is engaged in the practice of 658
respiratory care; 659

(10) Is engaged in the practice of respiratory care as an 660
employee of a person or governmental entity located in another 661
state and provides respiratory care services for less than 662
seventy-two hours to patients being transported into, out of, or 663
through this state; 664

(11) Is employed as a certified hyperbaric technologist, 665
has filed with the board a copy of the person's current 666
certification as a hyperbaric technologist in accordance with 667
the rules adopted by the board under section 4761.03 of the 668
Revised Code, has paid the fee established pursuant to section 669
4761.07 of the Revised Code, and administers hyperbaric oxygen 670
therapy under the direct supervision of a physician, a physician 671
assistant, or an advanced practice registered nurse and without 672
representing that the person is engaged in the practice of 673
respiratory care. 674

(B) Nothing in this chapter shall be construed to prevent 675
any person from advertising, describing, or offering to provide 676
respiratory care or billing for respiratory care when the 677
respiratory care services are provided by a health care 678
professional licensed by this state practicing within the scope 679
of practice established by the license held. Nothing in this 680
chapter shall be construed to prevent a hospital or nursing 681
facility from advertising, describing, or offering to provide 682
respiratory care, or billing for respiratory care rendered by a 683
person licensed under this chapter or persons who may provide 684
limited aspects of respiratory care or respiratory care tasks 685
pursuant to division (B) of section 4761.10 of the Revised Code. 686

(C) Notwithstanding division (A) of section 4761.10 of the 687
Revised Code, in a life-threatening situation, in the absence of 688
licensed personnel, unlicensed persons shall not be prohibited 689
from taking life-saving measures. 690

(D) Nothing in this chapter shall be construed as 691
authorizing a respiratory care professional to practice medicine 692
and surgery or osteopathic medicine and surgery. This division 693
does not prohibit a respiratory care professional from 694
administering topical or intradermal medications for the purpose 695
of producing localized decreased sensation as part of a 696
procedure or task that is within the scope of practice of a 697
respiratory care professional. 698

Sec. 4761.17. All of the following apply to the practice 699
of respiratory care by a person who holds a license or limited 700
permit issued under this chapter: 701

(A) The person shall practice only pursuant to ~~a~~one of 702
the following: 703

(1) A prescription or other order for respiratory care 704
issued by ~~a~~ one of the following: 705

(a) A physician ~~or by a~~; 706

(b) An advanced practice registered nurse who holds a 707
certificate of authority issued under Chapter 4723. of the 708
Revised Code to practice as a certified nurse practitioner or 709
clinical nurse specialist, is collaborating with a physician, 710
and has entered into a standard care arrangement ~~with a~~ 711
~~physician~~ that allows the nurse to prescribe or order 712
respiratory care services; 713

(c) A physician assistant who has entered into a 714
supervision agreement approved under section 4730.18 of the 715
Revised Code with a physician who allows the physician assistant 716
to prescribe or order respiratory care services. 717

(2) A protocol consisting of a set of treatment or 718
medication administration guidelines that are developed by a 719
hospital or nursing home under appropriate medical direction and 720
with medical staff approval and that comply with standards 721
prescribed by the Ohio respiratory care board in rules adopted 722
under section 4761.03 of the Revised Code. 723

(B) The person shall practice only under the supervision 724
of a physician or under the supervision of a certified nurse 725
practitioner ~~or~~, clinical nurse specialist, or physician 726
assistant who is authorized to prescribe or order respiratory 727
care services as provided in division (A) of this section. 728

(C) (1) When practicing under the prescription or order of 729
a certified nurse practitioner or clinical nurse specialist or 730
under the supervision of such a nurse, the person's 731
administration of medication that requires a prescription is 732

limited to the drugs that the nurse is authorized to prescribe 733
pursuant to the nurse's certificate to prescribe issued under 734
section 4723.48 of the Revised Code. 735

(2) When practicing under the prescription or order of a 736
physician assistant or under the supervision of a physician 737
assistant, the person's administration of medication that 738
requires a prescription is limited to the drugs that the 739
physician assistant is authorized to prescribe pursuant to the 740
physician assistant's certificate to prescribe issued under 741
section 4730.44 of the Revised Code. 742

Section 2. That existing sections 4730.09, 4761.01, 743
4761.03, 4761.04, 4761.05, 4761.06, 4761.07, 4761.09, 4761.11, 744
and 4761.17 of the Revised Code are hereby repealed. 745