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By: **Chairman, Environmental Matters Committee (Departmental - Health and Mental Hygiene)**

Introduced and read first time: February 1, 2001

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Respiratory Care Practitioners - Reporting Requirements, Practicing**  
3                                   **Without a License, Disciplinary Grounds, and Rehabilitation**

4 FOR the purpose of requiring hospitals, alternative health systems, and employers to  
5 report certain employment actions and terminations of employment of  
6 respiratory care practitioners; establishing an administrative fine for practicing  
7 without a respiratory care practitioner license; establishing certain grounds for  
8 discipline for respiratory care practitioners based on the filing of certified  
9 dockets; providing for respiratory care practitioners to participate in a  
10 rehabilitation program; authorizing the Board of Physician Quality Assurance to  
11 assess a fee to respiratory care practitioners for the utilization of the  
12 rehabilitation program; and generally relating to the licensure, discipline, and  
13 rehabilitation of respiratory care practitioners.

14 BY repealing and reenacting, with amendments,  
15 Article - Health Occupations  
16 Section 14-402, 14-405(a), 14-5A-17, 14-5A-18, 14-5A-19, 14-5A-20,  
17 14-5A-21, 14-5A-22, 14-5A-23, 14-5A-24, and 14-5A-25  
18 Annotated Code of Maryland  
19 (2000 Replacement Volume)

20 BY adding to  
21 Article - Health Occupations  
22 Section 14-5A-18  
23 Annotated Code of Maryland  
24 (2000 Replacement Volume)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
26 MARYLAND, That the Laws of Maryland read as follows:

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**Article - Health Occupations**

2 14-402.

3 (a) In reviewing an application for licensure, certification, or registration or in  
4 investigating an allegation brought against a licensed physician or any allied health  
5 professional regulated by the Board under this title, the medical society or Faculty  
6 committee may request the Board to direct, or the Board on its own initiative may  
7 direct, the licensed physician or any allied health professional regulated by the Board  
8 under this title to submit to an appropriate examination.

9 (b) In return for the privilege given by the State issuing a license,  
10 certification, or registration, the licensed, certified, or registered individual is deemed  
11 to have:

12 (1) Consented to submit to an examination under this section, if  
13 requested by the Board in writing; and

14 (2) Waived any claim of privilege as to the testimony or examination  
15 reports.

16 (c) The unreasonable failure or refusal of the licensed, certified, or registered  
17 individual to submit to an examination is prima facie evidence of the licensed,  
18 certified, or registered individual's inability to practice medicine or the respective  
19 discipline competently, unless the Board finds that the failure or refusal was beyond  
20 the control of the licensed, certified, or registered individual.

21 (d) The Board shall pay the costs of any examination made under this section.

22 (e) (1) (i) The Board shall assess each applicant for a license to practice  
23 medicine or for renewal of a license to practice medicine a fee of not more than \$50 to  
24 be set after the submission of a budget for the physician rehabilitation program and  
25 peer review activities by the Faculty to the Board.

26 (ii) The fee is to be used to fund the physician rehabilitation  
27 program and peer review activities of the Faculty, as approved by the Secretary.

28 (iii) The Board shall set a fee under this subsection in accordance  
29 with the budget submitted by the Faculty.

30 (2) The Legislative Auditor shall every 2 years audit the accounts and  
31 transactions of the Faculty for the physician rehabilitation program and peer review  
32 activities as provided in § 2-1220 of the State Government Article.

33 (F) (1) (I) THE BOARD SHALL ASSESS EACH APPLICANT FOR A LICENSE  
34 TO PRACTICE AS A RESPIRATORY CARE PRACTITIONER OR FOR RENEWAL OF A  
35 LICENSE TO PRACTICE AS A RESPIRATORY CARE PRACTITIONER A FEE SET BY THE  
36 BOARD AFTER THE SUBMISSION OF A BUDGET FOR THE RESPIRATORY CARE  
37 PRACTITIONER REHABILITATION PROGRAM BY THE FACULTY TO THE BOARD.

1 (II) THE FEE IS TO BE USED TO FUND THE RESPIRATORY CARE  
2 PRACTITIONER REHABILITATION PROGRAM ACTIVITIES OF THE FACULTY, AS  
3 APPROVED BY THE SECRETARY.

4 (III) THE BOARD SHALL SET A FEE UNDER THIS SUBSECTION IN  
5 ACCORDANCE WITH THE BUDGET SUBMITTED BY THE FACULTY.

6 (2) THE LEGISLATIVE AUDITOR SHALL EVERY 2 YEARS AUDIT THE  
7 ACCOUNTS AND TRANSACTIONS OF THE FACULTY FOR THE RESPIRATORY CARE  
8 PRACTITIONER REHABILITATION PROGRAM AS PROVIDED IN § 2-1220 OF THE STATE  
9 GOVERNMENT ARTICLE.

10 14-405.

11 (a) Except as otherwise provided in the Administrative Procedure Act, before  
12 the Board takes any action under § 14-404(a) of this subtitle or § 14-5A-17(A) of this  
13 title, it shall give the individual against whom the action is contemplated an  
14 opportunity for a hearing before a hearing officer.

15 14-5A-17.

16 (a) Subject to the hearing provisions of § 14-405 of this title, the Board may  
17 deny a license or temporary license to any applicant, reprimand any licensee or holder  
18 of a temporary license, place any licensee or holder of a temporary license on  
19 probation, or suspend or revoke a license or temporary license if the applicant,  
20 licensee, or holder:

21 (1) Fraudulently or deceptively obtains or attempts to obtain a license or  
22 temporary license for the applicant, licensee, or holder or for another;

23 (2) Fraudulently or deceptively uses a license or temporary license;

24 (3) Is guilty of unprofessional or immoral conduct in the practice of  
25 respiratory care;

26 (4) Is professionally, physically, or mentally incompetent;

27 (5) Abandons a patient;

28 (6) Is habitually intoxicated;

29 (7) Is addicted to or habitually abuses any narcotic or controlled  
30 dangerous substance as defined in Article 27 of the Code;

31 (8) Provides professional services while:

32 (i) Under the influence of alcohol; or

33 (ii) Using any narcotic or controlled dangerous substance as  
34 defined in Article 27 of the Code or any other drug that is in excess of therapeutic  
35 amounts or without valid medical indication;

- 1           (9)     Promotes the sale of services, drugs, devices, appliances, or goods to a  
2 patient so as to exploit the patient for financial gain;
- 3           (10)    Willfully makes or files a false report or record in the practice of  
4 respiratory care;
- 5           (11)    Willfully fails to file or record any report as required under law,  
6 willfully impedes or obstructs the filing or recording of a report, or induces another to  
7 fail to file or record a report;
- 8           (12)    Breaches patient confidentiality;
- 9           (13)    Pays or agrees to pay any sum or provide any form of remuneration  
10 or material benefit to any person for bringing or referring a patient or accepts or  
11 agrees to accept any sum or any form of remuneration or material benefit from an  
12 individual for bringing or referring a patient;
- 13          (14)    Knowingly makes a misrepresentation while practicing respiratory  
14 care;
- 15          (15)    Knowingly practices respiratory care with an unauthorized  
16 individual or aids an unauthorized individual in the practice of respiratory care;
- 17          (16)    Offers, undertakes, or agrees to cure or treat disease by a secret  
18 method, treatment, or medicine;
- 19          (17)    Is disciplined by a licensing or disciplinary authority or is convicted  
20 or disciplined by a court of any state or country or is disciplined by any branch of the  
21 United States uniformed services or the Veterans' Administration for an act that  
22 would be grounds for disciplinary action under the Board's disciplinary statutes;
- 23          (18)    Fails to meet appropriate standards for the delivery of respiratory  
24 care performed in any inpatient or outpatient facility, office, hospital or related  
25 institution, domiciliary care facility, patient's home, or any other location in this  
26 State;
- 27          (19)    Knowingly submits false statements to collect fees for which services  
28 are not provided;
- 29          (20)    (i)     Has been subject to investigation or disciplinary action by a  
30 licensing or disciplinary authority or by a court of any state or country for an act that  
31 would be grounds for disciplinary action under the Board's disciplinary statutes; and
- 32               (ii)    The licensed individual:
- 33                    1.     Surrendered the license issued by the state or country; or
- 34                    2.     Allowed the license issued by the state or country to expire  
35 or lapse;

1 (21) Knowingly fails to report suspected child abuse in violation of § 5-704  
2 of the Family Law Article;

3 (22) Sells, prescribes, gives away, or administers drugs for illegal or  
4 illegitimate medical purposes;

5 (23) Practices or attempts to practice beyond the authorized scope of  
6 practice;

7 (24) Is convicted of or pleads guilty or nolo contendere to a felony or to a  
8 crime involving moral turpitude whether or not any appeal or other proceeding is  
9 pending to have the conviction or plea set aside;

10 (25) Refuses, withholds from, denies, or discriminates against an  
11 individual with regard to the provision of professional services for which the licensee  
12 is licensed and qualified to render because the individual is HIV positive; or

13 (26) Practices or attempts to practice a respiratory care procedure or uses  
14 or attempts to use respiratory care equipment if the applicant, licensee, or holder has  
15 not received education and training in the performance of the procedure or the use of  
16 the equipment.

17 (b) Except as otherwise provided in the Administrative Procedure Act, before  
18 the Board takes any action under 14-5A-17(A) OF this section, it shall give the  
19 individual against whom the action is contemplated an opportunity for a hearing  
20 before the Board in accordance with the hearing requirements of § 14-405 of this title.

21 (C) (1) ON THE FILING OF CERTIFIED DOCKET ENTRIES WITH THE BOARD  
22 BY THE OFFICE OF THE ATTORNEY GENERAL, THE BOARD SHALL ORDER THE  
23 SUSPENSION OF A LICENSE IF THE LICENSEE IS CONVICTED OF OR PLEADS GUILTY  
24 OR NOLO CONTENDERE WITH RESPECT TO A CRIME INVOLVING MORAL TURPITUDE,  
25 WHETHER OR NOT ANY APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE  
26 CONVICTION OR PLEA SET ASIDE.

27 (2) AFTER COMPLETION OF THE APPELLATE PROCESS IF THE  
28 CONVICTION HAS NOT BEEN REVERSED OR THE PLEA HAS NOT BEEN SET ASIDE  
29 WITH RESPECT TO A CRIME INVOLVING MORAL TURPITUDE, THE BOARD SHALL  
30 ORDER THE REVOCATION OF A LICENSE ON THE CERTIFICATION BY THE OFFICE OF  
31 THE ATTORNEY GENERAL.

32 14-5A-18.

33 (A) HOSPITALS, RELATED INSTITUTIONS, ALTERNATIVE HEALTH SYSTEMS AS  
34 DEFINED IN § 14-501 OF THIS TITLE, AND EMPLOYERS SHALL FILE WITH THE BOARD  
35 A REPORT THAT THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH  
36 SYSTEM, OR EMPLOYER DENIED AN APPLICATION, OR LIMITED, REDUCED,  
37 OTHERWISE CHANGED, OR TERMINATED ANY LICENSED RESPIRATORY CARE  
38 PRACTITIONER FOR ANY REASONS THAT MIGHT BE GROUNDS FOR DISCIPLINARY  
39 ACTION UNDER § 14-5A-17 OF THIS SUBTITLE.

1 (B) THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM,  
2 OR EMPLOYER SHALL SUBMIT THE REPORT WITHIN 10 DAYS OF ANY ACTION  
3 DESCRIBED IN THIS SECTION.

4 (C) A REPORT MADE UNDER THIS SECTION IS NOT SUBJECT TO SUBPOENA OR  
5 DISCOVERY IN ANY CIVIL ACTION OTHER THAN A PROCEEDING ARISING OUT OF A  
6 HEARING AND DECISION OF THE BOARD UNDER THIS TITLE.

7 [14-5A-18.] 14-5A-19.

8 On the application of an individual whose license has been revoked, the Board,  
9 on the affirmative vote of a majority of its full authorized membership, may reinstate  
10 a revoked license.

11 [14-5A-19.] 14-5A-20.

12 Except as otherwise provided in this subtitle, a person may not practice, attempt  
13 to practice, or offer to practice respiratory care in this State unless licensed to practice  
14 respiratory care by the Board.

15 [14-5A-20.] 14-5A-21.

16 (a) Unless authorized to practice respiratory care under this subtitle, a person  
17 may not represent to the public by title, by description of services, methods, or  
18 procedures, or otherwise, that the person is authorized to practice respiratory care in  
19 this State.

20 (b) Unless authorized to practice respiratory care under this subtitle, a person  
21 may not use the abbreviation "R.C.P." or any other words, letters, or symbols with the  
22 intent to represent that the person practices respiratory care.

23 [14-5A-21.] 14-5A-22.

24 A person may not provide, attempt to provide, offer to provide, or represent that  
25 the person provides respiratory care unless the respiratory care is provided by an  
26 individual who is authorized to practice respiratory care under this subtitle.

27 [14-5A-22.] 14-5A-23.

28 (A) A person who violates any provision of this subtitle is guilty of a  
29 misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or  
30 imprisonment not exceeding 1 year or both.

31 (B) ANY PERSON WHO VIOLATES § 14-5A-21 OF THIS SUBTITLE IS SUBJECT TO  
32 A CIVIL FINE OF NOT MORE THAN \$5,000 TO BE LEVIED BY THE BOARD.

33 (C) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS SECTION  
34 INTO THE BOARD OF PHYSICIAN QUALITY ASSURANCE FUND.

1 [14-5A-23.] 14-5A-24.

2 This subtitle may be cited as the "Maryland Respiratory Care Practitioners Act".

3 [14-5A-24.] 14-5A-25.

4 Subject to the evaluation and reestablishment provisions of the Maryland  
5 Program Evaluation Act, this subtitle and all rules and regulations adopted under  
6 this subtitle shall terminate and be of no effect after July 1, 2006.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2001.