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

Introduced and read first time: February 1, 2001

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 14, 2001

CHAPTER _____

1 AN ACT concerning

2 **Respiratory Care Practitioners - Reporting Requirements, Practicing**
3 **Without a License, and 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, and discipline,~~
13 ~~and rehabilitation~~ of respiratory care practitioners.

14 BY repealing and reenacting, without amendments,

15 Article - Health Occupations

16 Section 14-402

17 Annotated Code of Maryland

18 (2000 Replacement Volume)

19 BY repealing and reenacting, with amendments,

20 Article - Health Occupations

21 Section ~~14-402~~, 14-405(a), 14-5A-17, 14-5A-18, 14-5A-19, 14-5A-20,

22 14-5A-21, 14-5A-22, 14-5A-23, 14-5A-24, and 14-5A-25

23 Annotated Code of Maryland

24 (2000 Replacement Volume)

1 BY adding to
2 Article - Health Occupations
3 Section 14-5A-18
4 Annotated Code of Maryland
5 (2000 Replacement Volume)

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

8 **Article - Health Occupations**

9 14-402.

10 (a) In reviewing an application for licensure, certification, or registration or in
11 investigating an allegation brought against a licensed physician or any allied health
12 professional regulated by the Board under this title, the medical society or Faculty
13 committee may request the Board to direct, or the Board on its own initiative may
14 direct, the licensed physician or any allied health professional regulated by the Board
15 under this title to submit to an appropriate examination.

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

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

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

23 (c) The unreasonable failure or refusal of the licensed, certified, or registered
24 individual to submit to an examination is prima facie evidence of the licensed,
25 certified, or registered individual's inability to practice medicine or the respective
26 discipline competently, unless the Board finds that the failure or refusal was beyond
27 the control of the licensed, certified, or registered individual.

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

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

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

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

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

4 ~~(F) (1) (I) THE BOARD SHALL ASSESS EACH APPLICANT FOR A LICENSE
 5 TO PRACTICE AS A RESPIRATORY CARE PRACTITIONER OR FOR RENEWAL OF A
 6 LICENSE TO PRACTICE AS A RESPIRATORY CARE PRACTITIONER A FEE SET BY THE
 7 BOARD AFTER THE SUBMISSION OF A BUDGET FOR THE RESPIRATORY CARE
 8 PRACTITIONER REHABILITATION PROGRAM BY THE FACULTY TO THE BOARD.~~

9 ~~(H) THE FEE IS TO BE USED TO FUND THE RESPIRATORY CARE
 10 PRACTITIONER REHABILITATION PROGRAM ACTIVITIES OF THE FACULTY, AS
 11 APPROVED BY THE SECRETARY.~~

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

14 ~~(2) THE LEGISLATIVE AUDITOR SHALL EVERY 2 YEARS AUDIT THE
 15 ACCOUNTS AND TRANSACTIONS OF THE FACULTY FOR THE RESPIRATORY CARE
 16 PRACTITIONER REHABILITATION PROGRAM AS PROVIDED IN § 2-1220 OF THE STATE
 17 GOVERNMENT ARTICLE.~~

18 14-405.

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

23 14-5A-17.

24 (a) Subject to the hearing provisions of § 14-405 of this title, the Board may
 25 deny a license or temporary license to any applicant, reprimand any licensee or holder
 26 of a temporary license, place any licensee or holder of a temporary license on
 27 probation, or suspend or revoke a license or temporary license if the applicant,
 28 licensee, or holder:

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

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

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

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

35 (5) Abandons a patient;

36 (6) Is habitually intoxicated;

- 1 (7) Is addicted to or habitually abuses any narcotic or controlled
2 dangerous substance as defined in Article 27 of the Code;
- 3 (8) Provides professional services while:
- 4 (i) Under the influence of alcohol; or
- 5 (ii) Using any narcotic or controlled dangerous substance as
6 defined in Article 27 of the Code or any other drug that is in excess of therapeutic
7 amounts or without valid medical indication;
- 8 (9) Promotes the sale of services, drugs, devices, appliances, or goods to a
9 patient so as to exploit the patient for financial gain;
- 10 (10) Willfully makes or files a false report or record in the practice of
11 respiratory care;
- 12 (11) Willfully fails to file or record any report as required under law,
13 willfully impedes or obstructs the filing or recording of a report, or induces another to
14 fail to file or record a report;
- 15 (12) Breaches patient confidentiality;
- 16 (13) Pays or agrees to pay any sum or provide any form of remuneration
17 or material benefit to any person for bringing or referring a patient or accepts or
18 agrees to accept any sum or any form of remuneration or material benefit from an
19 individual for bringing or referring a patient;
- 20 (14) Knowingly makes a misrepresentation while practicing respiratory
21 care;
- 22 (15) Knowingly practices respiratory care with an unauthorized
23 individual or aids an unauthorized individual in the practice of respiratory care;
- 24 (16) Offers, undertakes, or agrees to cure or treat disease by a secret
25 method, treatment, or medicine;
- 26 (17) Is disciplined by a licensing or disciplinary authority or is convicted
27 or disciplined by a court of any state or country or is disciplined by any branch of the
28 United States uniformed services or the Veterans' Administration for an act that
29 would be grounds for disciplinary action under the Board's disciplinary statutes;
- 30 (18) Fails to meet appropriate standards for the delivery of respiratory
31 care performed in any inpatient or outpatient facility, office, hospital or related
32 institution, domiciliary care facility, patient's home, or any other location in this
33 State;
- 34 (19) Knowingly submits false statements to collect fees for which services
35 are not provided;

1 (20) (i) Has been subject to investigation or disciplinary action by a
2 licensing or disciplinary authority or by a court of any state or country for an act that
3 would be grounds for disciplinary action under the Board's disciplinary statutes; and

4 (ii) The licensed individual:

- 5 1. Surrendered the license issued by the state or country; or
6 2. Allowed the license issued by the state or country to expire
7 or lapse;

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

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

12 (23) Practices or attempts to practice beyond the authorized scope of
13 practice;

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

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

20 (26) Practices or attempts to practice a respiratory care procedure or uses
21 or attempts to use respiratory care equipment if the applicant, licensee, or holder has
22 not received education and training in the performance of the procedure or the use of
23 the equipment.

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

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

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

1 14-5A-18.

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

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

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

15 [14-5A-18.] 14-5A-19.

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

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

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

23 [14-5A-20.] 14-5A-21.

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

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

31 [14-5A-21.] 14-5A-22.

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

1 [14-5A-22.] 14-5A-23.

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

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

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

9 [14-5A-23.] 14-5A-24.

10 This subtitle may be cited as the "Maryland Respiratory Care Practitioners Act".
11 [14-5A-24.] 14-5A-25.

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

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