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125th General Assembly

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**Representatives Collier, D. Evans, Hollister, McGregor, Raga, Schaffer,
Redfern, Widener, Jerse, Webster, Allen, G. Smith, Aslanides, Barrett, Book,
Carano, Carmichael, Cirelli, Daniels, DeWine, Domenick, Flowers, Jolivette,
Key, Miller, Otterman, T. Patton, Perry, Peterson, Price, Schlichter, Setzer,
Sferra, Strahorn, Wilson, Wolpert, Yates
Senator Fedor**

A B I L L

To amend sections 4745.01, 4761.02, 4761.03, and 1
4761.09 and to enact sections 4752.01 to 4752.09, 2
4752.11 to 4752.15, 4752.17 to 4752.19, and 3
4752.99 of the Revised Code to require home 4
medical equipment services providers to be 5
licensed by the Ohio Respiratory Care Board or to 6
be nationally accredited and registered by the 7
Board. 8

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

Section 1. That sections 4745.01, 4761.02, 4761.03, and 9
4761.09 be amended and sections 4752.01, 4752.02, 4752.03, 10
4752.04, 4752.05, 4752.06, 4752.07, 4752.08, 4752.09, 4752.11, 11
4752.12, 4752.13, 4752.14, 4752.15, 4752.17, 4752.18, 4752.19, and 12
4752.99 of the Revised Code be enacted to read as follows: 13

Sec. 4745.01. (A) "Standard renewal procedure," as used in 14
Chapters 905., 907., 909., 911., 913., 915., 918., 921., 923., 15

927., 942., 943., 953., 1321., 3710., 3713., 3719., 3731., 3742., 16
3748., 3769., 3783., 3921., 3951., 4104., 4105., 4143., 4169., 17
4561., 4703., 4707., 4709., 4713., 4715., 4717., 4723., 4725., 18
4727., 4728., 4729., 4731., 4733., 4734., 4735., 4739., 4741., 19
4747., 4749., 4752., 4753., 4755., 4757., 4758., 4759., 4761., 20
4766., 4773., and 4775. of the Revised Code, means the license 21
renewal procedures specified in this chapter. 22

(B) "Licensing agency," as used in this chapter, means any 23
department, division, board, section of a board, or other state 24
governmental unit subject to the standard renewal procedure, as 25
defined in this section, and authorized by the Revised Code to 26
issue a license to engage in a specific profession, occupation, or 27
occupational activity, or to have charge of and operate certain 28
specified equipment, machinery, or premises. 29

(C) "License," as used in this chapter, means a license, 30
certificate, permit, card, or other authority issued or conferred 31
by a licensing agency by authority of which the licensee has or 32
claims the privilege to engage in the profession, occupation, or 33
occupational activity, or to have control of and operate certain 34
specific equipment, machinery, or premises, over which the 35
licensing agency has jurisdiction. 36

(D) "Licensee," as used in this chapter, means either the 37
person to whom the license is issued or renewed by a licensing 38
agency, or the person, partnership, or corporation at whose 39
request the license is issued or renewed. 40

(E) "Renewal" and "renewed," as used in this chapter and in 41
the chapters of the Revised Code specified in division (A) of this 42
section, includes the continuing licensing procedure provided in 43
Chapter 3748. of the Revised Code and rules adopted under it and 44
in sections 1321.05 and 3921.33 of the Revised Code, and as 45
applied to those continuing licenses any reference in this chapter 46

to the date of expiration of any license shall be construed to 47
mean the due date of the annual or other fee for the continuing 48
license. 49

Sec. 4752.01. As used in this chapter: 50

(A) "Authorized health care professional" means a person 51
authorized under Chapter 4731. of the Revised Code to practice 52
medicine and surgery or osteopathic medicine and surgery or 53
otherwise authorized under Ohio law to prescribe the use of home 54
medical equipment by a patient. 55

(B) "Home medical equipment" means equipment that can stand 56
repeated use, is primarily and customarily used to serve a medical 57
purpose, is not useful to a person in the absence of illness or 58
injury, is appropriate for use in the home, and is one or more of 59
the following: 60

(1) Life-sustaining equipment prescribed by an authorized 61
health care professional that mechanically sustains, restores, or 62
supplants a vital bodily function, such as breathing; 63

(2) Technologically sophisticated medical equipment 64
prescribed by an authorized health care professional that requires 65
individualized adjustment or regular maintenance by a home medical 66
equipment services provider to maintain a patient's health care 67
condition or the effectiveness of the equipment; 68

(3) An item specified by the Ohio respiratory care board in 69
rules adopted under division (B) of section 4752.17 of the Revised 70
Code. 71

(C) "Home medical equipment services" means the sale, 72
delivery, installation, maintenance, replacement, or demonstration 73
of home medical equipment. 74

(D) "Home medical equipment services provider" means a person 75
engaged in offering home medical equipment services to the public. 76

(E) "Hospital" has the same meaning as in section 3727.01 of 77
the Revised Code. 78

(F) "Sell or rent" means to transfer ownership or the right 79
to use property, whether in person or through an agent, employee, 80
or other person, in return for compensation. 81

Sec. 4752.02. (A) Except as provided in division (B) of this 82
section, no person shall provide home medical equipment services 83
or claim to the public to be a home medical equipment services 84
provider unless either of the following is the case: 85

(1) The person holds a valid license issued under this 86
chapter; 87

(2) The person holds a valid certificate of registration 88
issued under this chapter. 89

(B) Division (A) of this section does not apply to any of the 90
following: 91

(1) A health care practitioner, as defined in section 4769.01 92
of the Revised Code, who does not sell or rent home medical 93
equipment; 94

(2) A hospital that provides home medical equipment services 95
only as an integral part of patient care and does not provide the 96
services through a separate entity that has its own medicare or 97
medicaid provider number; 98

(3) A manufacturer or wholesale distributor of home medical 99
equipment that does not sell directly to the public; 100

(4) A hospice care program, as defined by section 3712.01 of 101
the Revised Code, that does not sell or rent home medical 102
equipment; 103

(5) A home, as defined by section 3721.01 of the Revised 104
Code; 105

(6) A home health agency that is certified under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as a provider of home health services and does not sell or rent home medical equipment; 106
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(7) An individual who holds a current, valid license issued under Chapter 4741. of the Revised Code to practice veterinary medicine; 110
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(8) An individual who holds a current, valid license issued under Chapter 4779. of the Revised Code to practice orthotics, prosthetics, or pedorthics; 113
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(9) A pharmacy licensed under Chapter 4729. of the Revised Code that either does not sell or rent home medical equipment or receives total payments of less than ten thousand dollars per year from selling or renting home medical equipment; 116
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(10) A home dialysis equipment provider regulated by federal law. 120
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Sec. 4752.03. (A) A person seeking to comply with division (A) of section 4752.02 of the Revised Code shall do either of the following: 122
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(1) Apply for a license issued under this chapter; 125

(2) Apply for a certificate of registration issued under this chapter on the basis of being accredited by the joint commission on accreditation of healthcare organizations or another national accrediting body recognized by the Ohio respiratory care board, as specified in rules adopted under section 4752.17 of the Revised Code. 126
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(B) A person intending to provide home medical equipment services from more than one facility shall apply for a separate license or certificate of registration for each facility. 132
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Sec. 4752.04. A person seeking a license to provide home medical equipment services shall apply to the Ohio respiratory care board on a form the board shall prescribe and provide. The application must be accompanied by the license application fee established in rules adopted under section 4752.17 of the Revised Code and specify the name and location of the facility from which services will be provided. 135
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Sec. 4752.05. (A) The Ohio respiratory care board shall issue a license to provide home medical equipment services to each applicant under section 4752.04 of the Revised Code that meets either of the following requirements: 142
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(1) Meets the standards established by the board in rules adopted under section 4752.17 of the Revised Code; 146
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(2) Is a pharmacy licensed under Chapter 4729. of the Revised Code that receives total payments of ten thousand dollars or more per year from selling or renting home medical equipment. 148
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(B) During the period ending one year after the effective date of this section, an applicant that does not meet either of the requirements of division (A) of this section shall be granted a provisional license if for at least twelve months prior to the effective date of this section the applicant was engaged in the business of providing home medical equipment services. The provisional license expires one year following the date on which it is issued and is not subject to renewal under section 4752.06 of the Revised Code. 151
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(C) The board may conduct a personal interview of an applicant, or an applicant's representative, to determine the applicant's qualifications for licensure. 160
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(D) A license issued under division (A) of this section is valid from the day it is issued until the thirtieth day of June 163
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that immediately follows the date of issue. Thereafter a license 165
is valid only if it is renewed in accordance with section 4752.06 166
of the Revised Code biennially on or before the thirtieth day of 167
June. 168

(E) Any license issued under this section is valid only for 169
the facility named in the application. 170

Sec. 4752.06. Except for a provisional license issued under 171
section 4752.05 of the Revised Code, a license issued under this 172
chapter shall be renewed by the Ohio respiratory care board if the 173
license holder is in compliance with the applicable requirements 174
of this chapter. 175

An application for license renewal shall be accompanied by 176
the renewal fee established in rules adopted under section 4752.17 177
of the Revised Code and documentation satisfactory to the board 178
that the continuing education requirements of section 4752.07 of 179
the Revised Code have been met. Renewals shall be made in 180
accordance with the standard renewal procedure established under 181
Chapter 4745. of the Revised Code. 182

Sec. 4752.07. The holder of a license issued under this 183
chapter shall do all of the following: 184

(A) Maintain a physical facility and a medical equipment 185
inventory; 186

(B) Establish equipment management and personnel policies; 187

(C) Provide life-sustaining home medical equipment, as 188
described in division (B)(1) of section 4752.01 of the Revised 189
Code, and related home medical equipment services twenty-four 190
hours per day, seven days per week; 191

(D) Require persons in its employ or under its control who 192
provide home medical equipment services to successfully complete 193

continuing education programs in home medical equipment services 194
that meet the standards established by rule adopted under section 195
4752.17 of the Revised Code and maintain records on participation 196
in those programs; 197

(E) Maintain records on all individuals to whom it provides 198
home medical equipment and services; 199

(F) Maintain liability insurance, including coverage for 200
professional and products liability; 201

(G) Comply with all other requirements established by rule 202
adopted under section 4752.17 of the Revised Code that apply to 203
persons licensed under this chapter. 204

Sec. 4752.08. (A) The Ohio respiratory care board may inspect 205
the operations and facility, subpoena the records, and compel 206
testimony of employees of any home medical equipment services 207
provider licensed under this chapter. Inspections shall be 208
conducted as provided in rules adopted by the board under section 209
4752.17 of the Revised Code. 210

(B) The board shall employ investigators who shall, under the 211
direction of the executive director of the board, investigate 212
complaints and conduct inspections. Pursuant to an investigation 213
or inspection, investigators may review and audit records during 214
normal business hours at the place of business of the person being 215
investigated. The board and its employees shall not disclose 216
confidential information obtained during an investigation, except 217
pursuant to a court order. 218

(C) The board shall send the provider a report of the results 219
of an inspection. If the board determines that the provider is not 220
in compliance with any requirement of this chapter applicable to 221
providers licensed under this chapter, the board may direct the 222
provider to attain compliance. Failure of the provider to comply 223

with the directive is grounds for action by the board under 224
division (A)(1) of section 4752.09 of the Revised Code. 225

(D) A provider that disputes the results of an inspection may 226
file an appeal with the board not later than ninety days after 227
receiving the inspection report. The board shall review the 228
inspection report and, at the request of the provider, conduct a 229
new inspection. 230

Sec. 4752.09. (A) The Ohio respiratory care board may, in 231
accordance with Chapter 119. of the Revised Code, suspend or 232
revoke a license issued under this chapter or discipline a license 233
holder by imposing a fine of not more than five thousand dollars 234
or taking other disciplinary action on any of the following 235
grounds: 236

(1) Violation of any provision of this chapter or an order or 237
rule of the board, as those provisions, orders, or rules are 238
applicable to persons licensed under this chapter; 239

(2) A plea of guilty to or a judicial finding of guilt of a 240
felony or a misdemeanor that involves dishonesty or is directly 241
related to the provision of home medical equipment services; 242

(3) Making a material misstatement in furnishing information 243
to the board; 244

(4) Professional incompetence; 245

(5) Being guilty of negligence or gross misconduct in 246
providing home medical equipment services; 247

(6) Aiding, assisting, or willfully permitting another person 248
to violate any provision of this chapter or an order or rule of 249
the board, as those provisions, orders, or rules are applicable to 250
persons licensed under this chapter; 251

(7) Failing, within sixty days, to provide information in 252

<u>response to a written request by the board;</u>	253
<u>(8) Engaging in conduct likely to deceive, defraud, or harm the public;</u>	254
<u>(9) Denial, revocation, suspension, or restriction of a license to provide home medical equipment services, for any reason other than failure to renew, in another state or jurisdiction;</u>	256
<u>(10) Directly or indirectly giving to or receiving from any person a fee, commission, rebate, or other form of compensation for services not rendered;</u>	259
<u>(11) Knowingly making or filing false records, reports, or billings in the course of providing home medical equipment services, including false records, reports, or billings prepared for or submitted to state and federal agencies or departments;</u>	262
<u>(12) Failing to comply with federal rules issued pursuant to the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620(1935), 42 U.S.C. 1395, as amended, relating to operations, financial transactions, and general business practices of home medical services providers.</u>	266
<u>(B) The respiratory care board immediately may suspend a license without a hearing if it determines that there is evidence that the license holder is subject to actions under this section and that there is clear and convincing evidence that continued operation by the license holder presents an immediate and serious harm to the public. The president and executive director of the board shall make a preliminary determination and describe, by telephone conference or any other method of communication, the evidence on which they made their determination to the other members of the board. The board may by resolution designate another board member to act in place of the president of the board or another employee to act in the place of the executive director, in the event that the board president or executive director is</u>	271

unavailable or unable to act. On review of the evidence, the board may by a vote of not less than seven of its members, suspend a license without a prior hearing. The board may vote on the suspension by way of a telephone conference call.

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Immediately following the decision to suspend a license under this division, the board shall issue a written order of suspension and cause it to be delivered in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during the pendency of any appeal filed under section 119.12 of the Revised Code. If the license holder requests an adjudication hearing, the date set for the hearing shall be within fifteen days but not earlier than seven days after the license holder requests the hearing, unless another date is agreed to by the license holder and the board. The suspension shall remain in effect, unless reversed by the board, until a final adjudication order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudication order not later than ninety days after completion of the hearing. The board's failure to issue the order by that day shall cause the summary suspension to end, but shall not affect the validity of any subsequent final adjudication order.

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Sec. 4752.11. (A) A person seeking a certificate of registration to provide home medical equipment services shall apply to the Ohio respiratory care board on a form the board shall prescribe and provide. The application must be accompanied by the registration fee established in rules adopted under section 4752.17 of the Revised Code.

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(B) The applicant shall specify in the application all of the following:

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(1) The name of the facility from which services will be

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<u>provided;</u>	315
<u>(2) The facility's address;</u>	316
<u>(3) The facility's telephone number;</u>	317
<u>(4) A person who may be contacted with regard to the facility;</u>	318 319
<u>(5) The name of the national accrediting body that issued the accreditation on which the application is based;</u>	320 321
<u>(6) The applicant's accreditation number and the expiration date of the accreditation;</u>	322 323
<u>(7) A telephone number that may be used twenty-four hours a day, seven days a week, to obtain information related to the facility's provision of home medical equipment services.</u>	324 325 326
<u>Sec. 4752.12. (A) The Ohio respiratory care board shall issue a certificate of registration to provide home medical equipment services to each applicant who submits a complete application under section 4752.11 of the Revised Code. For purposes of this division, an application is complete only if the board finds that the applicant holds accreditation from the joint commission on accreditation of healthcare organizations or another national accrediting body recognized by the board, as specified in rules adopted under section 4752.17 of the Revised Code.</u>	327 328 329 330 331 332 333 334 335
<u>(B) A certificate of registration issued under this section is valid from the day it is issued until the thirtieth day of June that immediately follows the date of issue. Thereafter, a certificate of registration is valid only if it is renewed in accordance with section 4752.13 of the Revised Code biennially on or before the thirtieth day of June.</u>	336 337 338 339 340 341
<u>(C) A certificate of registration issued under this section is valid only for the facility named in the application.</u>	342 343

Sec. 4752.13. A certificate of registration issued under this chapter shall be renewed by the Ohio respiratory care board if the certificate holder is accredited by the joint commission on accreditation of healthcare organizations or another national accrediting body recognized by the board, as specified in rules adopted under section 4752.17 of the Revised Code. 344
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An application for renewal of a certificate of registration shall be accompanied by the renewal fee established in rules adopted under section 4752.17 of the Revised Code. Renewals shall be made in accordance with the standard renewal procedure established under Chapter 4745. of the Revised Code. 350
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Sec. 4752.14. The Ohio respiratory care board shall enter into a cooperative agreement with each of the national accrediting bodies it recognizes in rules adopted under section 4752.17 of the Revised Code for purposes of issuing certificates of registration under this chapter. The board shall ensure that each cooperative agreement establishes or specifies standards or procedures regarding a complaint process, patient safety and care, and any other matter the board considers appropriate for home medical equipment services providers that receive certificates of registration under this chapter. 355
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Sec. 4752.15. (A) The Ohio respiratory care board shall, in accordance with Chapter 119. of the Revised Code, suspend or revoke a certificate of registration issued under this chapter if it learns from any source that the accreditation on which the certificate of registration was issued has been revoked or suspended or is otherwise no longer valid. 365
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(B) If the status of the accreditation on which a certificate of registration is issued under this chapter changes for any reason, the holder of the certificate shall notify the board. On 371
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receipt of the notice, the board shall take action under division 374
(A) of this section, if appropriate. 375

Sec. 4752.17. (A) The Ohio respiratory care board shall adopt 376
rules to implement and administer this chapter. The rules shall do 377
all of the following: 378

(1) Specify items considered to be home medical equipment for 379
purposes of divisions (B)(1) and (2) of section 4752.01 of the 380
Revised Code; 381

(2) Establish procedures for issuance and renewal of licenses 382
and certificates of registration under this chapter, including the 383
duties that may be fulfilled by the board's executive director and 384
other board employees; 385

(3) Specify the national accrediting bodies the board 386
recognizes for purposes of issuing certificates of registration 387
under this chapter; 388

(4) Establish standards an applicant must meet to be eligible 389
to be granted a license under section 4752.05 of the Revised Code; 390

(5) Establish standards for personnel policies, equipment 391
storage, equipment maintenance, and record keeping to be followed 392
by home medical equipment services providers licensed under this 393
chapter; 394

(6) Establish standards for continuing education programs in 395
home medical equipment services for individuals who provide home 396
medical equipment services while employed by or under the control 397
of a home medical equipment services provider licensed under this 398
chapter; 399

(7) Establish standards and procedures for inspection of home 400
medical equipment providers licensed under this chapter and the 401
facilities from which their home medical equipment services are 402
provided and for appeal of inspection results; 403

(8) Establish fees for issuing and renewing licenses under this chapter, in an amount sufficient to meet the expenses the board incurs in administering the licensing program; 404
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(9) Establish fees for conducting inspections of home medical equipment services providers licensed under this chapter, in an amount sufficient to meet the expenses the board incurs in administering the inspection program; 407
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(10) Establish fees for issuing and renewing certificates of registration under this chapter, in an amount sufficient to meet the expenses the board incurs in administering the registration program; 411
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(11) Establish any other standards, requirements, or procedures the board considers necessary for the implementation or administration of this chapter. 415
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(B) The board may adopt rules specifying items that are considered home medical equipment for purposes of division (B)(3) of section 4752.01 of the Revised Code. 418
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(C) Rules shall be adopted under this chapter in accordance with Chapter 119. of the Revised Code. Prior to adopting any rule, the board shall consult with representatives of any association of home medical equipment services providers that do business in this state. 421
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Sec. 4752.18. All moneys the Ohio respiratory care board receives under this chapter, from any source, shall be deposited into the state treasury to the credit of the occupational licensing and regulatory fund created under section 4743.05 of the Revised Code. 426
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Sec. 4752.19. (A) At the request of the Ohio respiratory care board, the attorney general may bring a civil action for 431
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appropriate relief, including a temporary restraining order, 433
preliminary or permanent injunction, and civil penalties, in the 434
court of common pleas of the county in which a violation has 435
occurred, is occurring, or is threatening to occur against any 436
person who has violated, is violating, or threatens to violate 437
section 4752.02 of the Revised Code. In accordance with the Rules 438
of Civil Procedure, the court of common pleas in which an action 439
for injunction is filed has jurisdiction to grant, and shall 440
grant, a temporary restraining order and preliminary and permanent 441
injunctive relief upon a showing that the person against whom the 442
action is brought has violated, is violating, or threatens to 443
violate section 4752.02 of the Revised Code. In an action for a 444
civil penalty, the court may impose upon a person found to have 445
violated section 4752.02 of the Revised Code a civil penalty of 446
not less than five hundred and not more than two thousand five 447
hundred dollars for each day of violation. Moneys resulting from 448
civil penalties imposed under this section shall be deposited into 449
the state treasury to the credit of the occupational licensing and 450
regulatory fund created under section 4743.05 of the Revised Code. 451

(B) The remedies provided in this section are in addition to 452
remedies otherwise available under any federal or state law or 453
ordinance of a municipal corporation. 454

Sec. 4752.99. Whoever violates division (A) of section 455
4752.02 of the Revised Code is guilty of a minor misdemeanor on 456
the first offense. On the second offense, the person is guilty of 457
a misdemeanor of the fourth degree. On each subsequent offense, 458
the person is guilty of a misdemeanor of the first degree. 459

Sec. 4761.02. The governor, with the advice and consent of 460
the senate, shall appoint the Ohio respiratory care board, 461
consisting of ~~five~~ nine residents of this state. ~~Three~~ Five 462

members of the board shall be respiratory care professionals who 463
were engaged in or actively associated with the practice of 464
respiratory care in this state for at least five years immediately 465
preceding appointment. Two members shall be home medical equipment 466
services providers with not less than five years of management 467
experience in home medical equipment services prior to 468
appointment. One member shall be a physician who has clinical 469
training and experience in the management of pulmonary disease. 470
One member shall represent the public. 471

After the term of a member of the board expires or becomes 472
vacant, the Ohio state medical association may submit to the 473
governor the names of nominees for the board position to be filled 474
by a physician. The board of directors of the Ohio society for 475
respiratory care, inc., may recommend to the governor at least 476
three persons for each board position to be filled by a 477
respiratory care professional. The American lung association of 478
Ohio may submit to the governor the names of nominees for the 479
board position to be filled by a person representing the public. 480
The Ohio association of medical equipment services may submit to 481
the governor the names of nominees for the two board positions to 482
be filled by home medical equipment services providers. The 483
governor shall consider these nominees in making the appointments. 484

~~Terms~~ Of the two additional members of the board to be 485
appointed who are respiratory care professionals who were engaged 486
in or actively associated with the practice of respiratory care in 487
this state for at least five years immediately preceding 488
appointment, one shall be appointed for a term ending the 489
fourteenth day of March immediately following the date that is one 490
year after the effective date of this amendment and one for a term 491
ending on the fourteenth day of March immediately following the 492
date that is two years after the effective date of this amendment. 493
Of the initial two home medical equipment services providers 494

appointed to the board, one shall be appointed for a term ending 495
the fourteenth day of March immediately following the date that is 496
one year after the effective date of this amendment and one for a 497
term ending the fourteenth day of March immediately following the 498
date that is two years after the effective date of this amendment. 499
Thereafter, terms of office shall be for three years, each term 500
ending on the same day of the same month of the year as did the 501
term which it succeeds. A member shall serve subsequent to the 502
expiration of the member's term until a the member's successor is 503
appointed and qualifies, or until a period of sixty days has 504
elapsed, whichever occurs first. Each member, before entering upon 505
the duties of office, shall subscribe to and file with the 506
secretary of state the oath of office required under Section 7 of 507
Article XV, Ohio Constitution. Vacancies shall be filled in the 508
manner prescribed for the regular appointments to the board and 509
shall be limited to the unexpired terms. Members of the board may 510
be reappointed. 511

Annually, upon the qualification of the member or members 512
appointed in that year, the Ohio respiratory care board shall 513
organize and shall select from its members a president and 514
secretary. A majority of the members of the board shall constitute 515
a quorum to transact and vote on the business of the board. 516

Each member of the board shall receive an amount fixed 517
pursuant to division (J) of section 124.15 of the Revised Code for 518
each day actually employed in the discharge of the member's 519
duties. In addition, each member shall receive actual and 520
necessary expenses incurred in the performance of the member's 521
official duties. 522

The board shall employ an executive director who shall be in 523
the unclassified service of the state. The executive director 524
shall assist the board in the administration and enforcement of 525
this chapter and shall employ individuals as the board considers 526

necessary to provide that assistance. 527

Sec. 4761.03. The Ohio respiratory care board shall regulate 528
the practice of respiratory care in this state and the persons to 529
whom the board issues licenses and limited permits and shall 530
license and register home medical equipment services providers 531
under Chapter 4752. of the Revised Code under this chapter. Rules 532
adopted under this chapter that deal with the provision of 533
respiratory care in a hospital, other than rules regulating the 534
issuance of licenses or limited permits, shall be consistent with 535
the conditions for participation under medicare, Title XVIII of 536
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1395, 537
as amended, and with the respiratory care accreditation standards 538
of the joint commission on accreditation of healthcare 539
organizations or the American osteopathic association. 540

The board shall: 541

(A) Adopt, and may rescind or amend, rules in accordance with 542
Chapter 119. of the Revised Code to carry out the purposes of this 543
chapter, including rules prescribing: 544

(1) The form and manner for filing applications for licensure 545
and renewal, limited permits, and limited permit extensions under 546
sections 4761.05 and 4761.06 of the Revised Code; 547

(2) The form, scoring, and scheduling of examinations and 548
reexaminations for licensure and license renewal; 549

(3) Standards for the approval of educational programs 550
required to qualify for licensure and continuing education 551
programs required for license renewal; 552

(4) Continuing education courses and the number of hour 553
requirements necessary for license renewal, in accordance with 554
section 4761.06 of the Revised Code; 555

(5) Procedures for the issuance and renewal of licenses and 556

limited permits, including the duties that may be fulfilled by the 557
board's executive director and other board employees; 558

(6) Procedures for the denial, suspension, permanent 559
revocation, refusal to renew, and reinstatement of licenses and 560
limited permits, the conduct of hearings, and the imposition of 561
fines for engaging in conduct that is grounds for such action and 562
hearings under section 4761.09 of the Revised Code; 563

(7) Standards of ethical conduct for the practice of 564
respiratory care; 565

(8) Conditions under which the license renewal fee and 566
continuing education requirements may be waived at the request of 567
a licensee who is not in active practice; 568

(9) The respiratory care tasks that may be performed by an 569
individual practicing as a polysomnographic technologist pursuant 570
to division (B)(3) of section 4761.10 of the Revised Code; 571

(10) Procedures for registering out-of-state respiratory care 572
providers authorized to practice in this state under division 573
(A)(4) of section 4761.11 of the Revised Code. 574

(B) Determine the sufficiency of an applicant's 575
qualifications for admission to the licensing examination or a 576
reexamination, and for the issuance or renewal of a license or 577
limited permit; 578

(C) Determine the respiratory care educational programs that 579
are acceptable for fulfilling the requirements of division (A) of 580
section 4761.04 of the Revised Code; 581

(D) Schedule, administer, and score the licensing examination 582
or any reexamination for license renewal or reinstatement. The 583
board shall administer the licensing examinations at least twice a 584
year and notify applicants of the time and place of the 585
examinations. 586

(E) Investigate complaints concerning alleged violations of 587
section 4761.10 of the Revised Code or grounds for the suspension, 588
permanent revocation, or refusal to issue licenses or limited 589
permits under section 3123.47 or 4761.09 of the Revised Code. The 590
board shall employ investigators who shall, under the direction of 591
the executive director of the board, investigate complaints and 592
make inspections and other inquiries as, in the judgment of the 593
board, are appropriate to enforce sections 3123.41 to 3123.50, 594
4761.09, and 4761.10 of the Revised Code. Pursuant to an 595
investigation and inspection, the investigators may review and 596
audit records during normal business hours at the place of 597
business of a licensee or person who is the subject of a complaint 598
filed with the board or at any place where the records are kept. 599

Except when required by court order, the board and its 600
employees shall not disclose confidential information obtained 601
during an investigation or identifying information about any 602
person who files a complaint with the board. 603

The board may hear testimony in matters relating to the 604
duties imposed upon it and issue subpoenas pursuant to an 605
investigation. The president and secretary of the board may 606
administer oaths. 607

(F) Conduct hearings, keep records of its proceedings, and do 608
all such other things as are necessary and proper to carry out and 609
enforce the provisions of this chapter; 610

(G) Maintain, publish, and make available upon request, for a 611
fee not to exceed the actual cost of printing and mailing: 612

(1) The requirements for the issuance of licenses and limited 613
permits under this chapter and rules adopted by the board; 614

(2) A current register of every person licensed to practice 615
respiratory care in this state, to include the addresses of the 616
person's last known place of business and residence, the effective 617

date and identification number of the license, the name and 618
location of the institution that granted the person's degree or 619
certificate of completion of respiratory care educational 620
requirements, and the date the degree or certificate was issued; 621

(3) A list of the names and locations of the institutions 622
that each year granted degrees or certificates of completion in 623
respiratory care; 624

(4) After the administration of each examination, a list of 625
persons who passed the examination. 626

(H) Submit to the governor and to the general assembly each 627
year a report of all of its official actions during the preceding 628
year, together with any findings and recommendations with regard 629
to the improvement of the profession of respiratory care; 630

(I) Administer and enforce Chapter 4752. of the Revised Code. 631

Sec. 4761.09. (A) The Ohio respiratory care board may refuse 632
to issue or renew a license or a limited permit, may issue a 633
reprimand, may suspend or permanently revoke a license or limited 634
permit, or may place a license or limited permit holder on 635
probation, on any of the following grounds: 636

(1) A plea of guilty to, a judicial finding of guilt of, or a 637
judicial finding of eligibility for intervention in lieu of 638
conviction for an offense involving moral turpitude or of a 639
felony, in which case a certified copy of the court record shall 640
be conclusive evidence of the matter; 641

(2) Violating any provision of this chapter or an order or 642
rule of the board; 643

(3) Assisting another person in that person's violation of 644
any provision of this chapter or an order or rule of the board; 645

(4) Obtaining a license or limited permit by means of fraud, 646
false or misleading representation, or concealment of material 647

facts or making any other material misrepresentation to the board;	648
(5) Being guilty of negligence or gross misconduct in the practice of respiratory care;	649 650
(6) Violating the standards of ethical conduct adopted by the board, in the practice of respiratory care;	651 652
(7) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public;	653 654 655
(8) Using any 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;	656 657 658 659
(9) Practicing respiratory care while mentally incompetent;	660
(10) Accepting commissions, rebates, or other forms of remuneration for patient referrals;	661 662
(11) 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;	663 664 665
(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;	666 667 668
(13) Misrepresenting educational attainments or authorized functions for the purpose of obtaining some benefit related to the practice of respiratory care;	669 670 671
(14) Assisting suicide as defined in section 3795.01 of the Revised Code.	672 673
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 director of the board shall prepare and file written charges with the board. Disciplinary	674 675 676 677

actions taken by the board under this section shall be taken 678
pursuant to an adjudication under Chapter 119. of the Revised 679
Code, except that in lieu of an adjudication, the board may enter 680
into a consent agreement to resolve an allegation of a violation 681
of this chapter or any rule adopted under it. A consent agreement, 682
when ratified by the board, shall constitute the findings and 683
order of the board with respect to the matter addressed in the 684
agreement. If the board refuses to ratify a consent agreement, the 685
admissions and findings contained in the consent agreement shall 686
be of no effect. 687

(B) If the board orders a license or limited permit holder 688
placed on probation, the order shall be accompanied by a written 689
statement of the conditions under which the person may be restored 690
to practice. 691

The person may reapply to the board for original issuance of 692
a license after one year following the date the license was 693
denied. 694

A person may apply to the board for the reinstatement of a 695
license or limited permit after one year following the date of 696
suspension or refusal to renew. The board may accept or refuse the 697
application for reinstatement and may require that the applicant 698
pass a reexamination as a condition of eligibility for 699
reinstatement. 700

(C) If the president and secretary of the board determine 701
that there is clear and convincing evidence that a license or 702
limited permit holder has committed an act that is grounds for 703
board action under division (A) of this section and that continued 704
practice by the license or permit holder presents a danger of 705
immediate and serious harm to the public, the president and 706
secretary may recommend that the board suspend the license or 707
limited permit without a prior hearing. The president and 708
secretary shall submit in writing to the board the allegations 709

causing them to recommend the suspension. 710

On review of the allegations, the board, by a vote of not 711
less than ~~four~~ seven of its members, may suspend a license or 712
limited permit without a prior hearing. The board may review the 713
allegations and vote on the suspension by a telephone conference 714
call. 715

If the board votes to suspend a license or limited permit 716
under this division, the board shall issue a written order of 717
summary suspension to the license or limited permit holder in 718
accordance with section 119.07 of the Revised Code. If the license 719
or limited permit holder requests a hearing by the board, the 720
board shall conduct the hearing in accordance with Chapter 119. of 721
the Revised Code. Notwithstanding section 119.12 of the Revised 722
Code, a court of common pleas shall not grant a suspension of the 723
board's order of summary suspension pending determination of an 724
appeal filed under that section. 725

Any order of summary suspension issued under this division 726
shall remain in effect until a final adjudication order issued by 727
the board pursuant to division (A) of this section becomes 728
effective. The board shall issue its final adjudication order 729
regarding an order of summary suspension issued under this 730
division not later than sixty days after completion of its 731
hearing. Failure to issue the order within sixty days shall result 732
in immediate dissolution of the suspension order, but shall not 733
invalidate any subsequent, final adjudication order. 734

Section 2. That existing sections 4745.01, 4761.02, 4761.03, 735
and 4761.09 of the Revised Code are hereby repealed. 736

Section 3. Not later than ninety days after the effective 737
date of this act, the Governor with the advice and consent of the 738
Senate shall make the additional appointments to the Ohio 739

Respiratory Care Board under section 4761.02 of the Revised Code, 740
as amended by this act. 741

Section 4. Section 4752.02 of the Revised Code shall take 742
effect one year after the effective date of this act. Section 743
4761.09 of the Revised Code shall take effect ninety days after 744
the effective date of this act. 745