

AN ACT

To amend sections 4761.01, 4761.03, 4761.07, and 4761.11 of the Revised Code to exempt certified hyperbaric technologists from the laws governing the practice of respiratory care.

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

SECTION 1. That sections 4761.01, 4761.03, 4761.07, and 4761.11 of the Revised Code be amended to read as follows:

Sec. 4761.01. As used in this chapter:

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

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

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

(3) Performing cardiopulmonary resuscitation and respiratory rehabilitation techniques;

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

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

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

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

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

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

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

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

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

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

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

The board shall:

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

(1) The form and manner for filing applications for licensure and

renewal, limited permits, and limited permit extensions under sections 4761.05 and 4761.06 of the Revised Code;

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

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

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

(5) Procedures for the issuance and renewal of licenses and limited permits, including the duties that may be fulfilled by the board's executive director and other board employees;

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

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

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

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

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

(11) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code;

(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.

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

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

(D) Schedule, administer, and score the licensing examination or any reexamination for license renewal or reinstatement. The board shall

administer the licensing examinations at least twice a year and notify applicants of the time and place of the examinations.

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

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

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

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

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

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

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

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

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

(H) Submit to the governor and to the general assembly each year a report of all of its official actions during the preceding year, together with

any findings and recommendations with regard to the improvement of the profession of respiratory care;

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

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

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

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

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

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

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

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

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

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

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

engaged in the practice of respiratory care;

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

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

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

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

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

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

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

(7) Provides only self care;

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

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

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

(11) Is employed as a certified hyperbaric technologist, has filed with the board a copy of the person's current certification as a hyperbaric technologist in accordance with the rules adopted by the board under section 4761.03 of the Revised Code, has paid the fee established pursuant to section 4761.07 of the Revised Code, and administers hyperbaric oxygen

therapy under the direct supervision of a physician, a physician assistant, or an advanced practice registered nurse and without representing that the person is engaged in the practice of respiratory care.

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

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

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

SECTION 2. That existing sections 4761.01, 4761.03, 4761.07, and 4761.11 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 165

130th G.A.

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

Director, Legislative Service Commission.

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

Secretary of State.

File No. _____ Effective Date _____