

Sunset Review Completed by Legislature

The just-ended session of the 2005 Colorado General Assembly considered the proposed modifications to the Respiratory Therapy Practice Act, and adopted all but one.

Information about the practice of respiratory therapy in Colorado was gathered by the Office of Policy and Research and presented to the legislature last fall. Their report, the 2004 Sunset Review of the Respiratory Therapy Practice Act, is available on our website through the attached link, www.dora.state.co.us/respiratory-therapy.

The first change proposed in the Sunset Review was to discontinue the regulation of respiratory therapists. The argument for repeal did not sway legislators, and state regulation of respiratory therapy will continue until the next sunset review scheduled in 2015.

Two recommendations in the Sunset Review that were approved are the addition of two more grounds for disciplinary action. The first is the making of falsified or repeated incorrect entries or failing to make essential entries in medical records. The second was the addition of practicing beyond the scope of one's training, experience or competence.

Another recommendation reworded section 12-41.5-109(2)(h) of the practice act relating to drug or alcohol usage. The old language of "addiction to or dependence on..." was changed to "excessive or habitual use or abuse..." The last recommendation limits polysomnographic (sleep) technologists to certain procedures.

A copy of Senate Bill 05-147 is attached and was signed by Governor Owens on April 14, 2005.

An Act

SENATE BILL 05-147

BY SENATOR(S) Hanna, Hagedorn, Sandoval, Shaffer, Tochtrop, and Williams;
also REPRESENTATIVE(S) Riesberg, Boyd, Butcher, Cloer, Coleman, Green, Jahn, and Marshall.

CONCERNING THE CONTINUATION OF THE REGULATION OF RESPIRATORY THERAPISTS BY THE DIVISION OF REGISTRATIONS, AND, IN CONNECTION THEREWITH, MODIFYING THE GROUNDS FOR DISCIPLINING RESPIRATORY THERAPISTS AND ADDING AN EXEMPTION TO THE "RESPIRATORY THERAPY PRACTICE ACT" FOR SLEEP TECHNOLOGISTS.

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

SECTION 1. 12-41.5-109 (2) (h), Colorado Revised Statutes, is amended, and the said 12-41.5-109 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-41.5-109. Grounds for action - disciplinary proceedings.
(2) The director has the power to revoke, suspend, deny, or refuse to renew a license, place on probation a licensee, or issue a cease and desist order or letter of admonition to a licensee in accordance with subsections (3), (4), (5), and (6) of this section upon proof that such person:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(h) Is addicted to or dependent on AN EXCESSIVE OR HABITUAL USER OR ABUSER OF alcohol or habit-forming drugs or is a habitual user of a controlled substance, as defined in section 12-22-303 (7), or other drugs having similar effects; except that the director has the discretion not to discipline the license holder if he or she is participating in good faith in a program approved by the director designed to end such addiction or dependence USE OR ABUSE;

(2.5) THE DIRECTOR SHALL REVOKE, SUSPEND, DENY, OR REFUSE TO RENEW A LICENSE, PLACE A LICENSEE ON PROBATION, OR ISSUE A CEASE AND DESIST ORDER OR LETTER OF ADMONITION TO A LICENSEE IN ACCORDANCE WITH SUBSECTIONS (3), (4), (5), AND (6) OF THIS SECTION UPON PROOF THAT THE PERSON:

(a) HAS FALSIFIED OR REPEATEDLY MADE INCORRECT ESSENTIAL ENTRIES OR REPEATEDLY FAILED TO MAKE ESSENTIAL ENTRIES ON PATIENT RECORDS;

(b) HAS PRACTICED OUTSIDE OF OR BEYOND THE PERSON'S AREA OF TRAINING, EXPERIENCE, OR COMPETENCE.

SECTION 2. 12-41.5-110 (2) (a) (II), Colorado Revised Statutes, is amended, and the said 12-41.5-110 (2) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

12-41.5-110. Exceptions. (2) This article does not prohibit:

(a) (II) The practice of respiratory therapy by pulmonary function technology students or sleep POLYSOMNOGRAPHIC technology students that is an integral part of a program of study that leads to certification or registration for their respective disciplines. Students enrolled in such programs shall be identified as "student pulmonary functions technologists" or "student sleep POLYSOMNOGRAPHIC technologists" and shall practice only under the direct supervision of a respiratory therapist OR PHYSICIAN or under the supervision of an individual exempted from the provisions of this article pursuant to paragraph (g) of this subsection (2).

(III) THE PRACTICE OF RESPIRATORY THERAPY BY POLYSOMNOGRAPHIC TECHNOLOGISTS WHO ARE NOT REGISTERED BY OR DO NOT HOLD CREDENTIALS FROM A NATIONALLY RECOGNIZED ORGANIZATION,

BUT SUCH POLYSOMNOGRAPHIC TECHNOLOGISTS SHALL ONLY PRACTICE UNDER THE SUPERVISION OF A RESPIRATORY THERAPIST, A PHYSICIAN, OR AN INDIVIDUAL EXEMPTED FROM THE PROVISIONS OF THIS ARTICLE PURSUANT TO PARAGRAPH (g) OF THIS SUBSECTION (2).

SECTION 3. 12-41.5-110 (2) (g), Colorado Revised Statutes, is amended to read:

12-41.5-110. Exceptions. (2) This article does not prohibit:

(g) The practice of procedures that fall within the definition of respiratory therapy by certified pulmonary function technologists, registered pulmonary function technologists, REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS, or others who hold credentials from a nationally recognized organization as determined by the director, including, but not limited to, the national board for respiratory care; EXCEPT THAT THE SCOPE OF PRACTICE OF A REGISTERED POLYSOMNOGRAPHIC TECHNOLOGIST SHALL NOT EXCEED OXYGEN TITRATION WITH PULSE OXIMETRY AND NONINVASIVE POSITIVE PRESSURE VENTILATION TITRATION.

SECTION 4. 12-41.5-115 (1) and (2) (a), Colorado Revised Statutes, are amended to read:

12-41.5-115. Repeal of article - termination of functions.
(1) This article is repealed, effective July 1, 2005 2015.

(2) (a) The licensure functions of the director as set forth in this article are repealed, effective July 1, 2005 2015.

SECTION 5. 24-34-104 (46), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (46) The following agencies, functions, or both, shall terminate on July 1, 2015:

(e) THE LICENSING AND REGULATION OF RESPIRATORY THERAPISTS BY THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES IN ACCORDANCE WITH ARTICLE 41.5 OF TITLE 12, C.R.S.

SECTION 6. Repeal. 24-34-104 (36) (d), Colorado Revised Statutes, is repealed as follows:

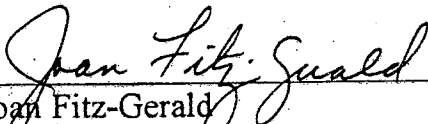
24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (36) The following agencies, functions, or both, shall terminate on July 1, 2005:

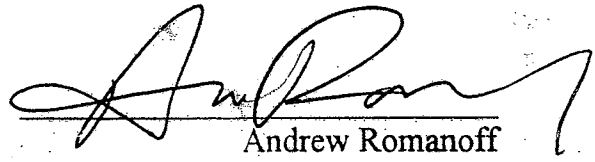
~~(d) The licensing and regulation of respiratory therapists by the division of registrations in the department of regulatory agencies in accordance with article 41.5 of title 12, C.R.S.;~~

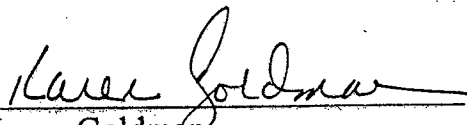
SECTION 7. Effective date. This act shall take effect July 1, 2005.

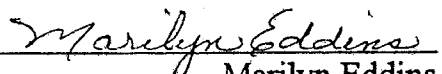
SECTION 8. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

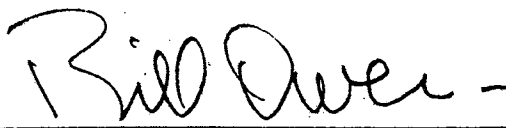

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CHIEF CLERK OF THE HOUSE
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APPROVED April 14, 2005 at 1:37 P


Bill Owens
GOVERNOR OF THE STATE OF COLORADO