

## CHAPTER 273

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**PROFESSIONS AND OCCUPATIONS**

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**HOUSE BILL 00-1294**

BY REPRESENTATIVES Morrison, Alexander, Bacon, Coleman, Gagliardi, George, Mace, Ragsdale, and Tochtrop;  
also SENATORS Epps and Hernandez.

**AN ACT**

CONCERNING REGULATION OF RESPIRATORY THERAPISTS, AND, IN CONNECTION THEREWITH, MAKING  
AN APPROPRIATION.

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

**SECTION 1.** Title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 41.5**  
**Respiratory Therapy Practice Act**

**12-41.5-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "RESPIRATORY THERAPY PRACTICE ACT".

**12-41.5-102. Legislative declaration.** THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE PRACTICE OF RESPIRATORY THERAPY IN THE STATE OF COLORADO AFFECTS THE PUBLIC HEALTH, SAFETY, AND WELFARE OF ITS CITIZENS AND MUST BE SUBJECT TO REGULATION AND CONTROL TO PROTECT THE PUBLIC FROM THE UNQUALIFIED PRACTICE OF RESPIRATORY THERAPY AND FROM UNPROFESSIONAL CONDUCT. THE GENERAL ASSEMBLY FURTHER RECOGNIZES THE PRACTICE OF RESPIRATORY THERAPY TO BE A DYNAMIC AND CHANGING ART AND SCIENCE THAT IS CONTINUALLY EVOLVING TO INCLUDE NEW IDEAS AND EVER MORE SOPHISTICATED TECHNIQUES IN PATIENT CARE.

**12-41.5-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES.

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

(2) "DIVISION" MEANS THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES CREATED IN SECTION 24-34-102, C.R.S.

(3) "LICENSEE" MEANS A RESPIRATORY THERAPIST LICENSED PURSUANT TO THIS ARTICLE.

(4) "MEDICAL DIRECTOR" MEANS A LICENSED PHYSICIAN WHO HOLDS SUCH TITLE IN ANY INPATIENT OR OUTPATIENT FACILITY, DEPARTMENT, OR HOME CARE AGENCY, AND WHO IS RESPONSIBLE FOR THE QUALITY, SAFETY, AND APPROPRIATENESS OF THE RESPIRATORY THERAPY PROVIDED.

(5) "RESPIRATORY THERAPIST" MEANS A PERSON WHO IS LICENSED TO PRACTICE RESPIRATORY THERAPY PURSUANT TO THIS ARTICLE.

(6) "RESPIRATORY THERAPY" MEANS PROVIDING THERAPY, MANAGEMENT, REHABILITATION, SUPPORT SERVICES FOR DIAGNOSTIC EVALUATION, AND CARE OF PATIENTS WITH DEFICIENCIES AND ABNORMALITIES WHICH AFFECT THE PULMONARY SYSTEM UNDER THE OVERALL DIRECTION OF A MEDICAL DIRECTOR. RESPIRATORY THERAPY INCLUDES THE FOLLOWING:

(a) DIRECT AND INDIRECT PULMONARY CARE SERVICES THAT ARE SAFE, ASEPTIC, PREVENTATIVE, AND RESTORATIVE TO THE PATIENT;

(b) THE TEACHING OR INSTRUCTION OF THE TECHNIQUES AND SKILL OF RESPIRATORY CARE WHETHER OR NOT IN A FORMAL EDUCATIONAL SETTING;

(c) DIRECT AND INDIRECT RESPIRATORY CARE SERVICES INCLUDING BUT NOT LIMITED TO THE ADMINISTRATION OF PHARMACOLOGICAL, DIAGNOSTIC, AND THERAPEUTIC AGENTS RELATED TO RESPIRATORY CARE PROCEDURES NECESSARY TO IMPLEMENT A TREATMENT, DISEASE PREVENTION, AND PULMONARY REHABILITATIVE OR DIAGNOSTIC REGIMEN PRESCRIBED BY A PHYSICIAN OR ADVANCED PRACTICE NURSE;

(d) OBSERVATION AND MONITORING OF SIGNS, SYMPTOMS, REACTIONS, GENERAL BEHAVIOR, AND GENERAL PHYSICAL RESPONSE TO RESPIRATORY CARE TREATMENT AND DIAGNOSTIC TESTING FOR:

(I) THE DETERMINATION OF WHETHER SUCH SIGNS, SYMPTOMS, REACTIONS, BEHAVIOR, OR GENERAL RESPONSE EXHIBIT ABNORMAL CHARACTERISTICS; OR

(II) THE IMPLEMENTATION BASED ON OBSERVED ABNORMALITIES OF APPROPRIATE REPORTING, REFERRAL, OR RESPIRATORY CARE PROTOCOLS OR CHANGES IN TREATMENT REGIMEN PURSUANT TO A PRESCRIPTION BY A PHYSICIAN OR ADVANCED PRACTICE NURSE OR THE INITIATION OF EMERGENCY PROCEDURES;

(e) THE DIAGNOSTIC AND THERAPEUTIC USE OF THE FOLLOWING IN ACCORDANCE WITH THE PRESCRIPTION OF A PHYSICIAN OR ADVANCED PRACTICE NURSE: ADMINISTRATION OF MEDICAL GASES, EXCLUSIVE OF GENERAL ANESTHESIA; AEROSOLS; HUMIDIFICATION; ENVIRONMENTAL CONTROL SYSTEMS AND BIOMEDICAL THERAPY; PHARMACOLOGIC AGENTS RELATED TO RESPIRATORY CARE PROCEDURES;

MECHANICAL OR PHYSIOLOGICAL VENTILATORY SUPPORT; BRONCHOPULMONARY HYGIENE; RESPIRATORY PROTOCOL AND EVALUATION; CARDIOPULMONARY RESUSCITATION; MAINTENANCE OF THE NATURAL AIRWAYS; INSERTION AND MAINTENANCE OF ARTIFICIAL AIRWAYS; DIAGNOSTIC AND TESTING TECHNIQUES REQUIRED FOR IMPLEMENTATION OF RESPIRATORY CARE PROTOCOLS; COLLECTION OF SPECIMENS FROM THE RESPIRATORY TRACT; OR ANALYSIS OF BLOOD GASES AND RESPIRATORY SECRETIONS AND PARTICIPATION IN CARDIOPULMONARY RESEARCH; AND

(f) THE TRANSCRIPTION AND IMPLEMENTATION OF THE WRITTEN AND VERBAL ORDERS OF A PHYSICIAN PERTAINING TO THE PRACTICE OF RESPIRATORY CARE.

**12-41.5-104. Use of titles restricted.** A RESPIRATORY THERAPIST, BUT NO OTHER PERSON, MAY USE THE TITLE "LICENSED RESPIRATORY THERAPIST" OR THE LETTERS "L.R.T.".

**12-41.5-105. Limitations on authority.** NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS AUTHORIZING A RESPIRATORY THERAPIST TO PERFORM THE PRACTICE OF MEDICINE, SURGERY, OR ANY OTHER FORM OF HEALING EXCEPT AS AUTHORIZED BY THE PROVISIONS OF THIS ARTICLE.

**12-41.5-106. License - reciprocity - effectiveness - fee.** (1) AN APPLICANT FOR A LICENSE TO PRACTICE RESPIRATORY THERAPY SHALL SUBMIT TO THE DIRECTOR WRITTEN EVIDENCE THAT HE OR SHE IS CREDENTIALLED WITH THE NATIONAL BOARD FOR RESPIRATORY CARE AS A CERTIFIED OR REGISTERED RESPIRATORY THERAPIST AND SHALL PAY A FEE AS DETERMINED BY THE DIRECTOR. THE DIRECTOR SHALL HAVE ON FILE THE STANDARDS OF PRACTICE FOR EXAMINATION AND ACCREDITATION BY THE NATIONAL BOARD FOR RESPIRATORY CARE, AND SUCH STANDARDS SHALL BE AVAILABLE TO THE PUBLIC.

(2) THE DIRECTOR SHALL ISSUE A LICENSE TO PRACTICE RESPIRATORY THERAPY TO AN APPLICANT WHO OTHERWISE MEETS THE QUALIFICATIONS SET FORTH IN THIS ARTICLE AND WHO SUBMITS SATISFACTORY PROOF AND CERTIFIES UNDER PENALTY OF PERJURY THAT THE APPLICANT IS EITHER:

(a) CURRENTLY IN POSSESSION OF AN UNRESTRICTED LICENSE IN GOOD STANDING TO PRACTICE RESPIRATORY THERAPY UNDER THE LAWS OF ANOTHER STATE OR TERRITORY OF THE UNITED STATES OR FOREIGN COUNTRY, IF THE QUALIFICATIONS OF THE APPLICANT ARE DEEMED BY THE DIRECTOR TO BE SUBSTANTIALLY EQUIVALENT TO THOSE REQUIRED BY THIS STATE, AND WHETHER THE APPLICANT HAS EVER HAD A DISCIPLINARY ACTION TAKEN IN REGARD TO THE APPLICANT'S LICENSE TO PRACTICE RESPIRATORY THERAPY IN ANOTHER STATE;

(b) HOLDING CREDENTIALS CONFERRED BY THE NATIONAL BOARD FOR RESPIRATORY CARE, WHICH CREDENTIALS HAVE NOT BEEN SUSPENDED OR REVOKED; OR

(c) FUNCTIONING IN THE CAPACITY OF A RESPIRATORY THERAPIST AS OF JULY 1, 2000, AND HAS SUCCESSFULLY PASSED, NO LATER THAN JULY 1, 2001, THE CERTIFICATION OR REGISTRATION EXAMINATION OF THE NATIONAL BOARD FOR RESPIRATORY CARE.

**12-41.5-107. Renewal of license.** (1) AT LEAST SIXTY CALENDER DAYS PRIOR TO THE EXPIRATION OF A LICENSE, THE DIRECTOR SHALL NOTIFY THE LICENSEE OF THE PENDING EXPIRATION. THE DIRECTOR SHALL MAKE AN EXPIRATION NOTICE AND A RENEWAL FORM AVAILABLE TO THE LICENSEE. BEFORE THE EXPIRATION DATE, THE LICENSEE SHALL COMPLETE THE RENEWAL FORM AND RETURN IT TO THE DIVISION WITH THE RENEWAL FEE.

(2) UPON RECEIPT OF THE COMPLETED RENEWAL FORM AND THE RENEWAL FEE, THE DIRECTOR SHALL ISSUE A LICENSE FOR THE CURRENT RENEWAL PERIOD.

(3) THE DIRECTOR MAY REINSTATE A LAPSED OR EXPIRED LICENSE UPON PAYMENT OF A RENEWAL FEE.

**12-41.5-108. Fees.** ALL FEES COLLECTED UNDER THIS ARTICLE SHALL BE DETERMINED, COLLECTED, AND APPROPRIATED IN THE SAME MANNER AS SET FORTH IN SECTION 24-34-105, C.R.S.

**12-41.5-109. Grounds for action - disciplinary proceedings.** (1) THE DIRECTOR MAY TAKE DISCIPLINARY ACTION AGAINST A LICENSEE IF THE DIRECTOR FINDS THAT SUCH PERSON HAS REPRESENTED HIMSELF OR HERSELF TO BE A LICENSED RESPIRATORY THERAPIST AFTER THE EXPIRATION OR SUSPENSION OF HIS OR HER LICENSE.

(2) THE DIRECTOR HAS THE POWER TO REVOKE, SUSPEND, DENY, 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:

(a) HAS PROCURED OR ATTEMPTED TO PROCURE A LICENSE BY FRAUD, DECEIT, MISREPRESENTATION, MISLEADING OMISSION, OR MATERIAL MISSTATEMENT OF FACT;

(b) (I) HAS BEEN CONVICTED OF OR HAS ENTERED AND HAD ACCEPTED BY A COURT A PLEA OF GUILTY OR NOLO CONTENDERE TO:

(A) A FELONY PURSUANT TO SECTION 18-1-105, C.R.S.; OR

(B) ANY CRIME AS DEFINED IN TITLE 18, C.R.S., THAT RELATES TO SUCH PERSON'S EMPLOYMENT AS A RESPIRATORY THERAPIST.

(II) A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF COMPETENT JURISDICTION OF SUCH CONVICTION OR PLEA SHALL BE PRIMA FACIE EVIDENCE OF SUCH CONVICTION. IN CONJUNCTION WITH ANY DISCIPLINARY PROCEEDING PERTAINING TO THIS PARAGRAPH (b), THE DIRECTOR SHALL BE GOVERNED BY SECTION 24-5-101, C.R.S.

(c) HAS WILLFULLY OR NEGLIGENTLY ACTED IN A MANNER INCONSISTENT WITH THE HEALTH OR SAFETY OF PERSONS UNDER HIS OR HER CARE;

(d) HAS HAD A LICENSE TO PRACTICE RESPIRATORY THERAPY OR ANY OTHER HEALTH CARE OCCUPATION SUSPENDED, REVOKED, OR OTHERWISE SUBJECTED TO DISCIPLINE IN ANY JURISDICTION. A CERTIFIED COPY OF THE ORDER OF SUSPENSION,

REVOCAION, OR DISCIPLINE SHALL BE PRIMA FACIE EVIDENCE OF SUCH SUSPENSION, REVOCATION, OR DISCIPLINE.

(e) HAS VIOLATED THIS ARTICLE OR HAS AIDED OR KNOWINGLY PERMITTED ANY PERSON TO VIOLATE THIS ARTICLE;

(f) PRACTICED RESPIRATORY THERAPY IN A MANNER WHICH FAILED TO MEET GENERALLY ACCEPTED STANDARDS FOR RESPIRATORY THERAPISTS;

(g) HAS NEGLIGENTLY OR WILLFULLY VIOLATED ANY ORDER OR RULE OF THE DIRECTOR PERTAINING TO THE PRACTICE OR LICENSURE OF RESPIRATORY THERAPY;

(h) IS ADDICTED TO OR DEPENDENT ON 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;

(i) HAS A PHYSICAL OR MENTAL DISABILITY THAT RENDERS HIM OR HER UNABLE TO PRACTICE RESPIRATORY THERAPY WITH REASONABLE SKILL AND SAFETY AND THAT MAY ENDANGER THE HEALTH OR SAFETY OF PERSONS UNDER HIS OR HER CARE;

(j) HAS COMMITTED:

(I) A FRAUDULENT INSURANCE ACT AS DEFINED IN SECTION 10-1-127, C.R.S.;

(II) AN ABUSE OF HEALTH INSURANCE, AS SET FORTH IN SECTION 18-13-119, C.R.S., OR ADVERTISED THROUGH ANY MEDIUM THAT HE OR SHE WILL PERFORM AN ACT PROHIBITED BY SECTION 18-13-119 (3), C.R.S.;

(k) HAS ENGAGED IN ANY OF THE FOLLOWING ACTIVITIES OR PRACTICES:

(I) WILLFUL AND REPEATED ORDERING AND PERFORMANCE, WITHOUT JUSTIFICATION, OF DEMONSTRABLY UNNECESSARY LABORATORY TESTS OR STUDIES;

(II) ADMINISTERING TREATMENT THAT IS DEMONSTRABLY UNNECESSARY, WITHOUT CLINICAL JUSTIFICATION;

(III) FAILING TO OBTAIN CONSULTATIONS OR PERFORM REFERRALS WHEN FAILING TO DO SO IS INCONSISTENT WITH THE STANDARD OF CARE FOR THE PROFESSION; OR

(IV) ORDERING OR PERFORMING, WITHOUT CLINICAL JUSTIFICATION, A SERVICE, PROCEDURE, OR TREATMENT THAT IS CONTRARY TO RECOGNIZED STANDARDS OF THE PRACTICE OF RESPIRATORY THERAPY AS INTERPRETED BY THE DIRECTOR.

(3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, THE DIRECTOR NEED NOT FIND THAT THE ACTIONS THAT ARE GROUNDS FOR DISCIPLINE WERE WILLFUL BUT MAY CONSIDER WHETHER SUCH ACTIONS WERE WILLFUL WHEN DETERMINING THE NATURE OF DISCIPLINARY SANCTIONS TO BE IMPOSED.

(4) A DISCIPLINARY PROCEEDING MAY BE COMMENCED WHEN THE DIRECTOR HAS REASONABLE GROUNDS TO BELIEVE THAT A LICENSEE HAS COMMITTED ACTS THAT MAY VIOLATE THIS SECTION.

(5) DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., AND THE HEARING AND OPPORTUNITY FOR REVIEW SHALL BE CONDUCTED PURSUANT TO SUCH ARTICLE BY THE DIRECTOR OR BY AN ADMINISTRATIVE LAW JUDGE, AT THE DIRECTOR'S DISCRETION. THE DIRECTOR HAS THE AUTHORITY TO EXERCISE ALL POWERS AND DUTIES CONFERRED BY THIS ARTICLE DURING SUCH DISCIPLINARY PROCEEDINGS.

(6) IF THE DIRECTOR FINDS THE CHARGES PROVED AND ORDERS THAT DISCIPLINE BE IMPOSED, THE DIRECTOR MAY REQUIRE, AS A CONDITION OF REINSTATEMENT, THAT THE LICENSEE TAKE SUCH THERAPY OR COURSES OF TRAINING OR EDUCATION AS MAY BE NEEDED TO CORRECT ANY DEFICIENCY FOUND.

(7) A FINAL ACTION OF THE DIRECTOR MAY BE JUDICIALLY REVIEWED BY THE COURT OF APPEALS IN ACCORDANCE WITH SECTION 24-4-106 (11), C.R.S., AND JUDICIAL PROCEEDINGS FOR THE ENFORCEMENT OF AN ORDER OF THE DIRECTOR MAY BE INSTITUTED IN ACCORDANCE WITH SECTION 24-4-106, C.R.S.

(8) A PERSON WHO IN GOOD FAITH MAKES A COMPLAINT OR REPORT OR PARTICIPATES IN AN INVESTIGATIVE OR ADMINISTRATIVE PROCEEDING PURSUANT TO THIS ARTICLE SHALL BE IMMUNE FROM LIABILITY, CIVIL OR CRIMINAL, THAT OTHERWISE MIGHT RESULT FROM SUCH ACTION.

(9) AN EMPLOYER OF A RESPIRATORY THERAPIST SHALL REPORT TO THE DIRECTOR ANY DISCIPLINARY ACTION TAKEN AGAINST SUCH THERAPIST OR THE RESIGNATION OF SUCH THERAPIST IN LIEU OF DISCIPLINARY ACTION FOR CONDUCT THAT VIOLATES THIS ARTICLE.

(10) (a) INVESTIGATIONS, EXAMINATIONS, HEARINGS, MEETINGS, AND OTHER PROCEEDINGS OF THE DIRECTOR CONDUCTED PURSUANT TO THIS SECTION SHALL BE EXEMPT FROM ANY LAW THAT REQUIRES:

(I) SUCH PROCEEDINGS TO BE CONDUCTED PUBLICLY; OR

(II) THE MINUTES OR RECORDS OF THE DIRECTOR, WITH RESPECT TO ACTION TAKEN PURSUANT TO THIS SECTION, TO BE OPEN TO THE PUBLIC.

(b) PARAGRAPH (a) OF THIS SUBSECTION (10) SHALL NOT APPLY AFTER THE DIRECTOR HAS MADE A DECISION TO PROCEED WITH A DISCIPLINARY ACTION AND HAS SERVED BY FIRST-CLASS MAIL A NOTICE OF FORMAL COMPLAINT ON THE LICENSEE.

**12-41.5-110. Exceptions.** (1) FOR PURPOSES OF THIS SECTION, "DIRECT SUPERVISION" SHALL MEAN THE SUPERVISION OF THOSE TASKS OR PROCEDURES THAT DO NOT REQUIRE THE PRESENCE OF A RESPIRATORY THERAPIST IN THE ROOM WHERE PERFORMED BUT REQUIRE THE RESPIRATORY THERAPIST'S PRESENCE ON THE PREMISES AND AVAILABILITY FOR PROMPT CONSULTATION AND TREATMENT.

(2) THIS ARTICLE DOES NOT PROHIBIT:

(a) ANY PRACTICE OF RESPIRATORY THERAPY THAT IS AN INTEGRAL PART OF A PROGRAM OF STUDY BY STUDENTS ENROLLED IN AN ACCREDITED RESPIRATORY THERAPY PROGRAM. STUDENTS ENROLLED IN RESPIRATORY THERAPY EDUCATION PROGRAMS SHALL BE IDENTIFIED AS "STUDENT RESPIRATORY THERAPISTS" AND SHALL ONLY PROVIDE RESPIRATORY THERAPY UNDER DIRECT SUPERVISION.

(b) SELF-THERAPY BY A PATIENT OR GRATUITOUS THERAPY BY A FRIEND OR FAMILY MEMBER WHO DOES NOT REPRESENT HIMSELF OR HERSELF TO BE A RESPIRATORY THERAPIST;

(c) ANY SERVICE PROVIDED DURING AN EMERGENCY THAT MAY BE INCLUDED IN THE DEFINITION OF THE PRACTICE OF RESPIRATORY THERAPY;

(d) RESPIRATORY THERAPY SERVICES RENDERED IN THE COURSE OF ASSIGNED DUTIES OF PERSONS SERVING IN THE MILITARY OR PERSONS WORKING IN FEDERAL FACILITIES;

(e) RESPIRATORY THERAPY SERVICES RENDERED IN THE COURSE OF ASSIGNED DUTIES OF PERSONS DELIVERING OXYGEN SUPPLIES, INCLUDING THE INSPECTION AND MAINTENANCE OF ASSOCIATED APPARATUS BY A PERSON WHO DOES NOT REPRESENT HIMSELF OR HERSELF AS A RESPIRATORY THERAPIST;

(f) ANY PERSON REGISTERED, CERTIFIED, OR LICENSED IN THIS STATE UNDER THIS TITLE FROM ENGAGING IN THE PRACTICE FOR WHICH SUCH PERSON IS REGISTERED, CERTIFIED, OR LICENSED;

(g) THE PRACTICE BY CERTIFIED PULMONARY FUNCTION TECHNOLOGISTS AND REGISTERED PULMONARY FUNCTION TECHNOLOGISTS WHO HOLD CREDENTIALS FROM AN ORGANIZATION THAT HAS BEEN RECOGNIZED BY THE NATIONAL BOARD FOR RESPIRATORY CARE; OR

(h) THE INSTRUCTION OR TRAINING OF PERSONS TO ADMINISTER EMERGENCY OXYGEN DURING AN AQUATIC EMERGENCY, WHEN SUCH INSTRUCTION OR TRAINING IS PROVIDED BY AN INDIVIDUAL WHO HAS BEEN CERTIFIED TO CONDUCT SUCH INSTRUCTION OR TRAINING BY A NATIONALLY RECOGNIZED CERTIFYING AGENCY.

**12-41.5-111. Practice of medicine prohibited.** SUBJECT TO SECTION 12-36-106 (3) (m), NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PERMIT THE PRACTICE OF MEDICINE AS DEFINED IN SECTION 12-36-106.

**12-41.5-112. Prohibited acts.** (1) EXCEPT AS PROVIDED IN SECTION 12-41.5-110, IT IS UNLAWFUL FOR ANY PERSON TO:

(a) PRACTICE RESPIRATORY THERAPY UNLESS LICENSED TO DO SO UNDER THIS ARTICLE;

(b) USE IN CONNECTION WITH HIS OR HER NAME ANY DESIGNATION THAT IMPLIES THAT HE OR SHE IS A CERTIFIED, REGISTERED, OR LICENSED RESPIRATORY THERAPIST, UNLESS SUCH PERSON IS LICENSED PURSUANT TO THIS ARTICLE;

(c) PRACTICE RESPIRATORY THERAPY AS A LICENSED RESPIRATORY THERAPIST

DURING THE TIME THAT HIS OR HER LICENSE IS SUSPENDED, REVOKED, OR EXPIRED;

(d) SELL, FRAUDULENTLY OBTAIN, OR FURNISH A LICENSE TO PRACTICE AS A LICENSED RESPIRATORY THERAPIST, OR AID OR ABET SUCH ACTIVITY;

(e) FAIL TO NOTIFY THE DIRECTOR OF THE SUSPENSION, PROBATION, OR REVOCATION OF ANY OF SUCH PERSON'S PAST OR CURRENTLY HELD LICENSES, CERTIFICATES, OR REGISTRATIONS REQUIRED TO PRACTICE RESPIRATORY THERAPY IN THIS OR ANY OTHER JURISDICTION;

(f) KNOWINGLY EMPLOY ANY PERSON WHO IS NOT LICENSED IN THE PRACTICE OF RESPIRATORY THERAPY IN THE CAPACITY OF A RESPIRATORY THERAPIST;

(g) PRACTICE RESPIRATORY THERAPY OR REPRESENT ONESELF AS BEING ABLE TO PRACTICE RESPIRATORY THERAPY IN THIS STATE UNLESS SUCH PERSON POSSESSES A VALID LICENSE ISSUED BY THE DIRECTOR IN ACCORDANCE WITH THIS ARTICLE AND ANY RULES AND REGULATIONS ADOPTED UNDER THIS ARTICLE;

(h) OTHERWISE VIOLATE ANY PROVISION OF THIS ARTICLE.

(2) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.; EXCEPT THAT IMPRISONMENT SHALL NOT BE IMPOSED FOR ANY SUCH VIOLATION.

**12-41.5-113. Rule-making authority.** THE DIRECTOR SHALL PROMULGATE SUCH RULES AS ARE NECESSARY OR CONVENIENT FOR THE ADMINISTRATION OF THIS ARTICLE.

**12-41.5-114. Severability.** IF ANY PROVISION OF THIS ARTICLE IS HELD TO BE INVALID, SUCH INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS OF THIS ARTICLE THAT CAN BE GIVEN EFFECT WITHOUT SUCH INVALID PROVISION.

**12-41.5-115. Repeal of article - termination of functions.** (1) THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 2005.

(2) (a) THE LICENSURE FUNCTIONS OF THE DIRECTOR AS SET FORTH IN THIS ARTICLE ARE REPEALED, EFFECTIVE JULY 1, 2005.

(b) PRIOR TO SUCH REPEAL, SUCH LICENSURE FUNCTIONS SHALL BE REVIEWED PURSUANT TO SECTION 24-34-104, C.R.S.

**SECTION 2.** 10-1-127 (1), Colorado Revised Statutes, is amended to read:

**10-1-127. Fraudulent insurance acts - immunity for furnishing information relating to suspected insurance fraud - legislative declaration.** (1) For purposes of this title, articles 40 to 47 of title 8, and articles 6, 7, 29.5, 32, 33, 35, 36, 38, 40, 41, 41.5, and 43 of title 12, C.R.S., a fraudulent insurance act is committed if a person knowingly and with intent to defraud presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, a purported insurer, a broker, or any agent thereof any written statement as part or in support of an application for the issuance or the rating of an insurance policy or a

claim for payment or other benefit pursuant to an insurance policy which he or she knows to contain false information concerning any fact material thereto or if he or she knowingly and with intent to defraud or mislead conceals information concerning any fact material thereto. For purposes of this section, "written statement" includes a patient medical record as such term is defined in section 18-4-412 (2) (a), C.R.S., and any bill for medical services.

**SECTION 3.** 24-34-104 (41), 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.** (41) The following agencies, functions, or both, shall terminate on July 1, 2010:

(f) 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 4. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of registrations cash fund created in section 24-34-105, Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for allocation to the division of registrations, for the fiscal year beginning July 1, 2000, the sum of seventy-eight thousand one hundred nineteen dollars (\$78,119) and 0.8 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of law, for the fiscal year beginning July 1, 2000, the sum of twenty-four thousand five hundred eighty-five dollars (\$24,585) and 0.3 FTE, or so much thereof as may be necessary, for the implementation of this act. Such sum shall be from cash funds received by the department of regulatory agencies from the division of registrations cash fund out of the appropriation made in subsection (1) of this section.

(3) In addition to any other appropriation, there is hereby appropriated, to the department of personnel, for allocation to the division of administrative hearings, for the fiscal year beginning July 1, 2000, the sum of two thousand four hundred ninety-two dollars (\$2,492), or so much thereof as may be necessary, for the implementation of this act. Such sum shall be from cash funds received by the department of regulatory agencies from the division of registrations cash fund out of the appropriation made in subsection (1) of this section.

**SECTION 5. Effective date.** This act shall take effect July 1, 2000, and shall apply to all persons practicing respiratory therapy on or after said date.

**SECTION 6. 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.

Approved: May 26, 2000