

CHAPTER 102

PROFESSIONS AND OCCUPATIONS

SENATE BILL 01-011

BY SENATOR(S) Epps and Phillips;
also REPRESENTATIVE(S) Cloer, Coleman, and Tochtrop.

AN ACT

CONCERNING CHANGES TO THE "RESPIRATORY THERAPY PRACTICE ACT", AND, IN CONNECTION THEREWITH, ADDING PRACTICES THAT ARE SPECIFICALLY NOT PROHIBITED AND AUTHORIZING INJUNCTIONS AGAINST PRACTICES THAT ARE PROHIBITED.

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

SECTION 1. 12-41.5-109, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-41.5-109. Grounds for action - disciplinary proceedings. (5.5) (a) THE DIRECTOR MAY REQUEST THE ATTORNEY GENERAL TO SEEK AN INJUNCTION, IN ANY COURT OF COMPETENT JURISDICTION, TO ENJOIN ANY PERSON FROM COMMITTING ANY ACT PROHIBITED BY THIS ARTICLE. WHEN SEEKING AN INJUNCTION UNDER THIS PARAGRAPH (a), THE ATTORNEY GENERAL SHALL NOT BE REQUIRED TO ALLEGE OR PROVE THE INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED VIOLATION OF THIS ARTICLE.

(b) IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 4 OF TITLE 24, C.R.S., AND THIS ARTICLE, THE DIRECTOR IS AUTHORIZED TO INVESTIGATE, HOLD HEARINGS, AND GATHER EVIDENCE IN ALL MATTERS RELATED TO THE EXERCISE AND PERFORMANCE OF THE POWERS AND DUTIES OF THE DIRECTOR. THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE MAY SUBPOENA WITNESSES, ADMINISTER OATHS, COMPEL TESTIMONY OF WITNESSES, AND COMPEL THE PRODUCTION OF BOOKS, PAPERS, AND RECORDS RELEVANT TO ANY INQUIRY OR HEARING. A SUBPOENA ISSUED PURSUANT TO THIS PARAGRAPH (b) SHALL BE ENFORCEABLE BY THE DISTRICT COURT OF ANY JUDICIAL DISTRICT IN COLORADO IN ACCORDANCE WITH SECTION 24-4-105 (5), C.R.S.

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

SECTION 2. Repeal. 12-41.5-110 (1), Colorado Revised Statutes, is repealed as follows:

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.~~

SECTION 3. 12-41.5-110 (2) (a), (2) (g), and (2) (h), Colorado Revised Statutes, are amended, and the said 12-41.5-110 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

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

(a) (I) 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 OF A RESPIRATORY THERAPIST ON THE PREMISES WHO IS AVAILABLE FOR PROMPT CONSULTATION OR TREATMENT.

(II) THE PRACTICE OF RESPIRATORY THERAPY BY PULMONARY FUNCTION TECHNOLOGY STUDENTS OR SLEEP 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 TECHNOLOGISTS" AND SHALL PRACTICE ONLY UNDER THE DIRECT SUPERVISION OF A RESPIRATORY THERAPIST OR UNDER THE SUPERVISION OF AN INDIVIDUAL EXEMPTED FROM THE PROVISIONS OF THIS ARTICLE PURSUANT TO PARAGRAPH (g) OF THIS SUBSECTION (2).

(g) The practice OF PROCEDURES THAT FALL WITHIN THE DEFINITION OF RESPIRATORY THERAPY by certified pulmonary function technologists, ~~and~~ registered pulmonary function technologists, OR OTHERS who hold credentials from ~~an~~ A NATIONALLY RECOGNIZED organization ~~that has been recognized by~~ AS DETERMINED BY THE DIRECTOR, INCLUDING BUT NOT LIMITED TO 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; OR

(i) THE PRACTICE BY AN UNLICENSED PERSON OF PROCEDURES THAT FALL WITHIN THE DEFINITION OF RESPIRATORY THERAPY BUT THAT DO NOT REQUIRE THE UNLICENSED PERSON TO PERFORM AN ASSESSMENT, TO PERFORM AN INVASIVE PROCEDURE AS DEFINED BY THE DIRECTOR, OR TO ALTER CARE BEYOND THE SCOPE OF APPROVED PROTOCOLS, SO LONG AS THE UNLICENSED PERSON IS UNDER SUPERVISION AS DETERMINED APPROPRIATE BY THE RESPIRATORY THERAPIST AND AFTER SUCH RESPIRATORY THERAPIST HAS CONSIDERED ALL OF THE FOLLOWING:

(I) THE HEALTH STATUS AND MENTAL AND PHYSICAL STABILITY OF THE INDIVIDUAL RECEIVING CARE;

(II) THE COMPLEXITY OF THE PROCEDURES;

(III) THE TRAINING AND COMPETENCE OF THE UNLICENSED PERSON;

(IV) THE PROXIMITY AND AVAILABILITY OF THE RESPIRATORY THERAPIST WHEN THE PROCEDURES ARE PERFORMED;

(V) THE DEGREE OF SUPERVISION REQUIRED FOR THE UNLICENSED PERSON;

(VI) THE LENGTH AND NUMBER OF TIMES THAT THE PROCEDURE MAY BE PERFORMED; AND

(VII) THE PREDICTABILITY OF THE OUTCOME OF THE PROCEDURE.

SECTION 4. Effective date - applicability. This act shall take effect upon passage, and shall apply to acts occurring on or after said date.

SECTION 5. 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: March 30, 2001