

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

SENATE BILL 1300

AN ACT

AMENDING SECTIONS 32-3501, 32-3503, 32-3504, 32-3506, 32-3521, 32-3524, 32-3525, 32-3526 AND 32-3553, ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF RESPIRATORY CARE EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-3501, Arizona Revised Statutes, is amended to
3 read:

4 32-3501. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Board" means the board of respiratory care examiners.

7 2. "Diagnostic testing" includes obtaining physiologic samples and
8 determining acid-base status and blood gas values from blood samples and
9 pulmonary function measurements.

10 3. "Licensed respiratory care practitioner" means a respiratory
11 therapist ~~or respiratory therapy technician~~ WHO IS licensed pursuant to this
12 chapter.

13 4. "Medical direction" means direction by a physician WHO IS licensed
14 pursuant to chapter 13 or 17 of this title.

15 5. "Practice of respiratory care" means direct and indirect
16 respiratory care services THAT ARE performed in a clinic, hospital, skilled
17 nursing facility or private dwelling or other place deemed appropriate or
18 necessary by the board in accordance with the prescription or verbal order of
19 a physician and performed under qualified medical direction. These services
20 include:

21 (a) Administering pharmacological, diagnostic and therapeutic agents
22 THAT ARE related to respiratory care procedures and necessary to implement a
23 treatment, disease prevention, pulmonary rehabilitative or diagnostic regimen
24 prescribed by a physician.

25 (b) Transcribing and implementing the written or verbal orders of a
26 physician pertaining to the practice of respiratory care and observing and
27 monitoring signs and symptoms, general behavior, general physical ~~response~~
28 RESPONSES to respiratory care treatment and diagnostic testing, including a
29 determination of whether these signs, symptoms, reactions, behavior or
30 general ~~response exhibits~~ RESPONSES EXHIBIT abnormal characteristics.

31 (c) Implementing appropriate reporting, referral, respiratory care
32 protocols or changes in treatment based on observed abnormalities and
33 pursuant to a prescription by a physician WHO IS licensed pursuant to chapter
34 13 or 17 of this title.

35 (d) Initiating emergency procedures pursuant to board rules or as
36 otherwise permitted in this chapter.

37 (e) Respiratory therapy.

38 (f) Inhalation therapy.

39 (g) THERAPEUTICS.

40 6. "Respiratory therapist" means a person who successfully completes a
41 respiratory therapy training program approved by the board.

42 ~~7. "Respiratory therapy technician" means a person who successfully~~
43 ~~completes a training program for respiratory therapy technicians approved by~~
44 ~~the board.~~

1 ~~8.~~ 7. "Respiratory therapy training program" means a program THAT IS
2 accredited by the ~~American medical association's committee on allied health~~
3 ~~education and accreditation in collaboration with the joint review committee~~
4 ~~for respiratory therapy education~~ COMMISSION ON ACCREDITATION FOR RESPIRATORY
5 CARE OR ITS SUCCESSOR AGENCY AND THAT IS adopted by the board.

6 ~~9.~~ 8. "Therapeutics" includes the following:
7 (a) Applying and monitoring oxygen therapy.
8 (b) Administering pharmacological agents to the cardiopulmonary
9 systems.
10 (c) Ventilation therapy.
11 (d) Artificial airway care.
12 (e) Bronchial hygiene therapy.
13 (f) Cardiopulmonary resuscitation.
14 (g) Respiratory rehabilitation therapy.
15 (h) Barometric therapy.
16 (i) Assisting physicians licensed pursuant to chapter 13 or 17 of this
17 title with hemodynamic monitoring.

18 ~~10.~~ 9. "Unprofessional conduct" includes the following ~~acts~~:
19 (a) Committing a felony, whether or not involving moral turpitude, or
20 a misdemeanor involving moral turpitude.
21 (b) Habitual intemperance in the use of alcohol.
22 (c) Illegal use of narcotic or hypnotic drugs or substances.
23 (d) Gross incompetence, repeated incompetence or incompetence
24 resulting in injury to a patient.
25 (e) Having professional connection with or lending the name of the
26 licensee to an illegal practitioner of respiratory therapy or any of the
27 other healing arts.
28 (f) Failing to refer a patient whose condition is beyond the training
29 or ability of the respiratory therapist to another professional qualified to
30 provide such service.
31 (g) Immorality or misconduct that tends to discredit the respiratory
32 therapy profession.
33 (h) ~~Refusal, revocation or suspension of~~ HAVING a license REFUSED,
34 REVOKED OR SUSPENDED by any other state, territory, district or country,
35 unless it can be shown that this was not caused by reasons ~~which~~ THAT relate
36 to the person's ability to safely and skillfully practice respiratory therapy
37 or to an act of unprofessional conduct prescribed in this paragraph.
38 (i) Any conduct or practice ~~which~~ THAT is contrary to recognized
39 standards of ethics of the respiratory therapy profession or any conduct or
40 practice ~~which~~ THAT does or might constitute a danger to the health, welfare
41 or safety of the patient or the public.
42 (j) Any conduct, practice or condition ~~which~~ THAT does or might impair
43 the person's ability to safely and skillfully practice respiratory therapy.

1 (k) Violating or attempting to violate, directly or indirectly, or
2 assisting in or abetting the violation of or conspiring to violate a
3 provision of this chapter.

4 (l) Failing to report to the board **WITHIN TEN CALENDAR DAYS** an
5 incident or incidents ~~which~~ **THAT** appear to show the existence of a cause for
6 disciplinary action or that a licensed respiratory care practitioner is or
7 may be professionally incompetent or is or may be mentally or physically
8 unable to engage safely in the practice of respiratory care.

9 Sec. 2. Section 32-3503, Arizona Revised Statutes, is amended to read:

10 **32-3503. Meetings; organization; compensation**

11 A. The board shall meet in January of each year to elect a chairman
12 and other officers. The board shall hold at least one additional meeting
13 before the end of each calendar year. Other meetings may be convened at the
14 call of the chairman or the written request of any two board members. A
15 majority of the members of the board constitutes a quorum.

16 B. All board meetings are open to the public, ~~except that the board
17 may hold closed sessions to approve examinations or, on the request of an
18 applicant who fails an examination, to prepare a response indicating a reason
19 for an applicant's failure.~~

20 C. Board members are eligible to receive compensation pursuant to
21 section 38-611 and are entitled to reimbursement of expenses necessarily and
22 properly incurred in carrying out board duties.

23 Sec. 3. Section 32-3504, Arizona Revised Statutes, is amended to read:

24 **32-3504. Powers and duties; inspection of records; personnel
25 examinations; immunity; program termination**

26 A. The board shall:

27 1. Enforce and administer the provisions of this chapter.

28 2. Adopt rules necessary to administer this chapter.

29 3. Examine applicants for licensure pursuant to this chapter at times
30 and places it designates.

31 4. Investigate each applicant for licensure, before a license is
32 issued, in order to determine if the applicant is qualified pursuant to this
33 chapter.

34 5. Keep a record of all its acts and proceedings pursuant to this
35 chapter, including the issuance, refusal, renewal, suspension or revocation
36 of licenses.

37 6. ~~Beginning on January 1, 1999,~~ Require each applicant for initial
38 licensure to submit a full set of fingerprints to the board for a state and
39 federal criminal history records check pursuant to section 41-1750 and Public
40 Law 92-544.

41 7. Maintain a register ~~which~~ **THAT** contains the name, the last known
42 place of residence and the date and number of the license of all persons **WHO**
43 **ARE** licensed pursuant to this chapter.

44 8. Compile, once every two years, a list of licensed respiratory care
45 practitioners who are authorized to practice in this state.

1 9. Establish minimum annual continuing education requirements for
2 persons WHO ARE licensed under this chapter. THE BOARD SHALL APPROVE
3 ORGANIZATIONS FROM WHICH CONTINUING EDUCATION CLASSES MAY BE ACCEPTED.

4 10. ESTABLISH A CONFIDENTIAL PROGRAM FOR THE MONITORING OF LICENSEES
5 WHO ARE CHEMICALLY DEPENDENT AND WHO ENROLL IN REHABILITATION PROGRAMS THAT
6 MEET THE CRITERIA ESTABLISHED BY THE BOARD. THE BOARD MAY TAKE FURTHER
7 ACTION IF THE LICENSEE REFUSES TO ENTER INTO A STIPULATED AGREEMENT OR FAILS
8 TO COMPLY WITH ITS TERMS. IN ORDER TO PROTECT THE PUBLIC HEALTH AND SAFETY,
9 THE CONFIDENTIALITY REQUIREMENTS OF THIS PARAGRAPH DO NOT APPLY IF THE
10 LICENSEE DOES NOT COMPLY WITH THE STIPULATED AGREEMENT.

11 B. The board, in approving ~~training~~ EDUCATION programs for respiratory
12 therapists ~~and training programs for respiratory therapy technicians~~, shall
13 consider the requirements and standards set by the ~~American medical~~
14 ~~association's committee on allied health education and accreditation in~~
15 ~~collaboration with the joint review committee for respiratory therapy~~
16 ~~education~~ COMMISSION ON ACCREDITATION FOR RESPIRATORY CARE OR ITS SUCCESSOR
17 ORGANIZATION. The board may recognize examinations administered by a
18 national board for respiratory care approved by the board.

19 C. The board may conduct examinations under a uniform examination
20 system and may make arrangements with the national board of respiratory care
21 or other organizations regarding examination materials it determines
22 necessary and desirable.

23 D. The board and its members, personnel and board examiners are
24 personally immune from suit with respect to all acts done and actions taken
25 in good faith and in furtherance of the purposes of this chapter.

26 E. THE PROGRAM ESTABLISHED PURSUANT TO SUBSECTION A, PARAGRAPH 10 OF
27 THIS SECTION ENDS ON JULY 1, 2026 PURSUANT TO SECTION 41-3102.

28 Sec. 4. Section 32-3506, Arizona Revised Statutes, is amended to read:
29 32-3506. Executive director; duties; compensation

30 A. Subject to title 41, chapter 4, article 4, the board shall appoint
31 an executive director who serves at the pleasure of the board. The executive
32 director shall not be a board member.

33 B. The executive director and other board employees are eligible to
34 receive compensation as determined pursuant to section 38-611.

35 C. The executive director shall:

36 1. Perform the board's administrative duties.

37 2. Subject to title 41, chapter 4, article 4 and, as applicable,
38 articles 5 and 6, employ, evaluate, dismiss, discipline and direct personnel
39 as necessary to carry out board functions.

40 3. Initiate an investigation if there is reason to believe that a
41 licensee is incompetent, mentally or physically unable to safely practice
42 respiratory care or engaged in unprofessional conduct.

43 4. Issue subpoenas if necessary to compel the attendance and testimony
44 of witnesses and the production of books, records, documents and evidence.

1 5. As directed by the board, sign and execute disciplinary orders,
2 rehabilitative orders and notices of hearings.

3 6. On behalf of the board, enter into stipulated agreements with
4 licensees for the treatment, rehabilitation and monitoring of chemical
5 substance abuse or misuse.

6 7. ON BEHALF OF THE BOARD, ENTER INTO STIPULATED AGREEMENTS WITH
7 LICENSEES FOR THE CONFIDENTIAL TREATMENT, REHABILITATION AND MONITORING OF
8 CHEMICAL DEPENDENCY. A LICENSEE WHO MATERIALLY FAILS TO COMPLY WITH A
9 PROGRAM REQUIREMENT SHALL BE REPORTED TO THE BOARD AND TERMINATED FROM THE
10 CONFIDENTIAL PROGRAM ESTABLISHED PURSUANT TO SECTION 32-3504. ANY RECORDS OF
11 A LICENSEE WHO IS TERMINATED FROM A CONFIDENTIAL PROGRAM ARE NO LONGER
12 CONFIDENTIAL OR EXEMPT FROM THE PUBLIC RECORDS LAW. NOTWITHSTANDING ANY LAW
13 TO THE CONTRARY, STIPULATED AGREEMENTS ARE NOT PUBLIC RECORDS IF THE
14 FOLLOWING CONDITIONS ARE MET:

15 (a) THE LICENSEE VOLUNTARILY AGREES TO PARTICIPATE IN THE CONFIDENTIAL
16 PROGRAM.

17 (b) THE LICENSEE COMPLIES WITH ALL TREATMENT REQUIREMENTS OR
18 RECOMMENDATIONS, INCLUDING PARTICIPATION IN ALCOHOLICS ANONYMOUS OR AN
19 EQUIVALENT TWELVE-STEP PROGRAM AND SUPPORT GROUP.

20 (c) THE LICENSEE REFRAINS FROM THE PRACTICE OF RESPIRATORY CARE UNTIL
21 THE RETURN TO RESPIRATORY CARE HAS BEEN APPROVED BY THE TREATMENT PROGRAM AND
22 THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

23 (d) THE LICENSEE COMPLIES WITH ALL MONITORING REQUIREMENTS OF THE
24 STIPULATED AGREEMENT, INCLUDING RANDOM BODILY FLUID TESTING.

25 (e) THE LICENSEE'S RESPIRATORY CARE EMPLOYER IS NOTIFIED OF THE
26 LICENSEE'S CHEMICAL DEPENDENCY AND PARTICIPATION IN THE CONFIDENTIAL PROGRAM
27 AND IS PROVIDED A COPY OF THE STIPULATED AGREEMENT.

28 ~~7.~~ 8. Perform all other duties required by the board.

29 Sec. 5. Section 32-3521, Arizona Revised Statutes, is amended to read:
30 32-3521. Allowable respiratory care services; transactions by
31 medical equipment dealers

32 A. This chapter does not prohibit:

33 1. The performance of respiratory care services that are an integral
34 part of a program of study by students WHO ARE enrolled in respiratory
35 therapy training programs if the services are rendered under the supervision
36 of a licensed respiratory care practitioner or a physician licensed pursuant
37 to chapter 13 or 17 of this title.

38 2. Self-care by a patient or the gratuitous care by a friend or
39 relative who does not purport to be a licensed respiratory care practitioner.

40 3. The performance of respiratory care services in case of an
41 emergency, including an epidemic or public disaster.

42 4. The performance of respiratory care services by registered,
43 certified or licensed individuals as provided pursuant to chapters 7, 8, 11,
44 13, 14, 15, 17, 18, 19, 21, 25, 28 and 29 of this title and title 36, chapter
45 21.1.

1 5. The performance of specific diagnostic testing techniques relating
2 to respiratory care by a person under medical direction in a clinical
3 laboratory that is regulated pursuant to title 36, chapter 4.1.

4 6. The performance of respiratory care services by a person WHO IS
5 employed as a respiratory therapist ~~or respiratory therapy technician~~ by the
6 United States government or any of its agencies if that person provides
7 respiratory therapy only under the direction or control of the federal
8 government or an agency of the federal government.

9 7. Medical equipment dealers who comply with subsection B of this
10 section from taking a prescription for respiratory equipment, as long as that
11 prescription is verified by a licensed respiratory therapist ~~or respiratory~~
12 ~~therapy technician~~, and delivering oxygen equipment to or demonstrating the
13 operation, safety and maintenance of oxygen equipment at a patient's home.

14 B. In a sale or lease of respiratory equipment by a medical equipment
15 dealer to a patient, the terms of the sale or lease shall be in writing and
16 signed by the parties describing the date of the sale or lease, the equipment
17 to be sold or leased and the cost and method of payment for the equipment and
18 shall include verification by a licensed respiratory therapist ~~or respiratory~~
19 ~~therapy technician~~ attesting that purchase or lease of the equipment is
20 consistent with the prescription and the needs of the patient. The patient
21 shall be provided a copy of all documents pertaining to the sale or lease at
22 the time the documents are signed by the parties.

23 Sec. 6. Section 32-3524, Arizona Revised Statutes, is amended to read:

24 32-3524. Licensure without examination

25 The board may issue a license to an applicant without examination if
26 the applicant:

- 27 1. Files an application pursuant to section 32-3522.
- 28 2. Satisfies the requirements prescribed in section 32-3523.
- 29 3. At the time of ~~his application~~ APPLYING, is either:

30 (a) Licensed as a licensed respiratory care practitioner in another
31 state in which, in the opinion of the board, the licensure requirements are
32 at least equivalent to those in this state and has passed, to the
33 satisfaction of the board, an examination in the state where ~~he~~ THE APPLICANT
34 is licensed that is, in the opinion of the board, equivalent to the
35 examination given under its direction.

36 (b) Registered as a respiratory therapist ~~or certified as a~~
37 ~~respiratory therapy technician~~ by a national organization for respiratory
38 care approved by the board.

39 Sec. 7. Section 32-3525, Arizona Revised Statutes, is amended to read:

40 32-3525. Renewal of license; late renewal

41 Except as provided in section 32-4301, a license issued under this
42 chapter is subject to renewal every other year on or before the birthday of
43 the licensee and expires unless renewed. The board may ~~reinstate a license~~
44 ~~cancelled for failure to renew on compliance with board requirements for~~
45 ~~renewal of licenses~~ RENEW AN EXPIRED LICENSE WITHIN NINETY DAYS AFTER THE

1 EXPIRATION OF THE LICENSE IF THE APPLICANT HAS COMPLIED WITH ALL LATE RENEWAL
2 APPLICATION REQUIREMENTS AND PAID THE APPLICATION AND RENEWAL FEES.

3 Sec. 8. Section 32-3526, Arizona Revised Statutes, is amended to read:
4 32-3526. Fees

5 A. The board by rule shall establish and collect fees that do not
6 exceed the following:

7 1. Application for a license, one hundred dollars.

8 2. Application based on a diploma from a foreign respiratory therapy
9 school, two hundred dollars.

10 3. Initial license, two hundred dollars.

11 4. Renewal of a license OR LATE RENEWAL OF A LICENSE, two hundred
12 dollars.

13 5. Duplicate license, fifty dollars.

14 ~~6. Examination fee, one hundred fifty dollars.~~

15 B. The board shall prescribe the fee necessary to obtain a copy of the
16 list of licensed respiratory care practitioners. Any interested person may
17 obtain a copy ~~upon~~ ON payment of the fee.

18 C. The board by rule may establish and collect fees for license
19 renewals and verifications and for checks that are returned for nonpayment
20 because of insufficient monies, payments stopped or closed accounts.

21 Sec. 9. Section 32-3553, Arizona Revised Statutes, is amended to read:

22 32-3553. Disciplinary action; duty to report; immunity;
23 proceedings; board action; confidentiality

24 A. The board on its own motion may investigate any evidence that
25 relates to a licensee and that appears to show the existence of any of the
26 causes for disciplinary action prescribed in section 32-3552 or that a
27 licensed respiratory care practitioner is or may be professionally
28 incompetent or is or may be mentally or physically unable to engage safely in
29 the practice of respiratory care. A licensed respiratory care practitioner
30 or a health care institution as defined in section 36-401 shall, and any
31 other person may, report to the board information the licensed respiratory
32 practitioner, health care institution or individual may have that appears to
33 show the existence of any of the causes for disciplinary action prescribed in
34 section 32-3552 or that a licensed respiratory care practitioner is or may be
35 professionally incompetent or is or may be mentally or physically unable to
36 engage safely in the practice of respiratory care.

37 B. A licensed respiratory care practitioner, a health care institution
38 or any other person that reports or provides information to the board in good
39 faith is not subject to an action for civil damages as a result of reporting
40 the information, and on request the name of the reporter shall not be
41 disclosed unless the information is essential to proceedings conducted
42 pursuant to this section. The board shall report a health care institution
43 that fails to report as required by this section to the institution's
44 licensing agency.

1 C. Within ninety days of receipt of information, the board shall
2 notify the licensed respiratory care practitioner about whom information has
3 been received as to the content of the information. ~~WITHIN TWENTY DAYS AFTER~~
4 ~~NOTIFICATION, THE LICENSED RESPIRATORY CARE PRACTITIONER SHALL SUBMIT TO THE~~
5 ~~BOARD AN ANSWER TO THE ALLEGATION CONTAINED IN THE INITIAL COMPLAINT~~
6 ~~NOTIFICATION.~~

7 D. A health care institution shall inform the board if a licensed
8 respiratory care practitioner is terminated due to a cause listed in section
9 32-3552, along with a general statement of the reasons that led the health
10 care institution to take the action.

11 E. If the board finds, based on the information it receives pursuant
12 to this section, that the public health, safety or welfare imperatively
13 requires emergency action, and incorporates a finding to that effect in its
14 order, the board may order a summary suspension of a license pending
15 proceedings for revocation or other action. If an order of summary
16 suspension is issued, the licensee shall also be served with a written notice
17 of complaint and formal hearing pursuant to title 41, chapter 6, article 10,
18 setting forth the charges made against the licensee, and is entitled to a
19 formal hearing before the board on the charges within sixty days.

20 F. ~~ON DETERMINATION OF REASONABLE CAUSE, THE BOARD, OR IF DELEGATED BY~~
21 ~~THE BOARD THE EXECUTIVE DIRECTOR, MAY REQUIRE A LICENSEE OR APPLICANT TO~~
22 ~~UNDERGO AT THE EXPENSE OF THE LICENSEE OR APPLICANT ANY COMBINATION OF~~
23 ~~MENTAL, PHYSICAL OR PSYCHOLOGICAL EXAMINATIONS, ASSESSMENTS OR SKILLS~~
24 ~~EVALUATIONS NECESSARY TO DETERMINE THE PERSON'S COMPETENCE OR ABILITY TO~~
25 ~~PRACTICE SAFELY. THESE EXAMINATIONS MAY INCLUDE BODILY FLUID TESTING AND~~
26 ~~OTHER EXAMINATIONS KNOWN TO DETECT THE PRESENCE OF ALCOHOL OR DRUGS. IF THE~~
27 ~~EXECUTIVE DIRECTOR ORDERS THE LICENSEE OR APPLICANT TO UNDERTAKE AN~~
28 ~~EXAMINATION, ASSESSMENT OR EVALUATION PURSUANT TO THIS SUBSECTION AND THE~~
29 ~~LICENSEE OR APPLICANT FAILS TO AFFIRM TO THE BOARD IN WRITING WITHIN FIFTEEN~~
30 ~~DAYS AFTER RECEIPT OF THE NOTICE OF THE ORDER THAT THE LICENSEE OR APPLICANT~~
31 ~~INTENDS TO COMPLY WITH THE ORDER, THE EXECUTIVE DIRECTOR SHALL REFER THE~~
32 ~~MATTER TO THE BOARD TO ALLOW THE BOARD TO DETERMINE WHETHER TO ISSUE AN ORDER~~
33 ~~PURSUANT TO THIS SUBSECTION. AT EACH REGULAR MEETING OF THE BOARD, THE~~
34 ~~EXECUTIVE DIRECTOR SHALL REPORT TO THE BOARD DATA CONCERNING ORDERS ISSUED BY~~
35 ~~THE EXECUTIVE DIRECTOR PURSUANT TO THIS SUBSECTION SINCE THE LAST REGULAR~~
36 ~~MEETING OF THE BOARD AND ANY OTHER DATA REQUESTED BY THE BOARD.~~

37 ~~F.~~ G. If, after completing its investigation, the board finds that
38 the information provided pursuant to this section is not of sufficient
39 seriousness to merit direct action against the license of the licensed
40 respiratory care practitioner, it may take any of the following actions:

41 1. Dismiss the complaint if the board believes that the information is
42 without merit.

43 2. File a letter of concern if the board believes that while there is
44 insufficient evidence to support direct action against the license of the
45 licensed respiratory care practitioner there is sufficient evidence for the

1 board to notify the licensee that continuing the activities that led to the
2 information being submitted to the board may result in action against the
3 license.

4 3. Issue a nondisciplinary order requiring the licensee to complete a
5 prescribed number of hours of continuing education in an area or areas
6 prescribed by the board to provide the licensee with the necessary
7 understanding of current developments, skills, procedures or treatment.

8 ~~G.~~ H. If after completing the investigation the board believes that
9 the information provided pursuant to this section is or may be true, the
10 board may request an interview with the licensee. If the licensee refuses
11 this request or is interviewed and the results indicate that suspension or
12 revocation of the license might be in order, the board shall issue a formal
13 complaint and hold a formal hearing pursuant to title 41, chapter 6,
14 article 10. If, after completing the informal interview, the board finds
15 that the information provided pursuant to this section is not of sufficient
16 seriousness to merit suspension or revocation of the license, ~~it~~ THE BOARD
17 may either dismiss the complaint if ~~it~~ THE BOARD believes ~~it~~ THE COMPLAINT is
18 without merit or take any combination of the following actions:

19 1. File a letter of concern if the board believes that while there is
20 insufficient evidence to support direct action against the license there is
21 sufficient evidence for the board to notify the licensee that continuation of
22 the activities that led to the information being submitted to the board may
23 result in action against that person's license.

24 2. Issue a decree of censure, which constitutes an official action
25 against the respiratory care practitioner's license.

26 3. Fix a period and terms of probation best adapted to protect the
27 public health and safety and rehabilitate or educate the licensed respiratory
28 care practitioner concerned.

29 4. Restrict the licensee's practice to specific settings in a manner
30 the board determines best protects the public health and safety.

31 5. ISSUE A CIVIL PENALTY OF UP TO FIVE HUNDRED DOLLARS PER VIOLATION.

32 ~~5.~~ 6. Issue a nondisciplinary order requiring the licensee to
33 complete a prescribed number of hours of continuing education in an area or
34 areas prescribed by the board to provide the licensee with the necessary
35 understanding of current developments, skills, procedures or treatment.

36 ~~H.~~ I. Failure to comply with probation is cause for initiation of a
37 formal proceeding for suspension or revocation of a license pursuant to this
38 section based on the information considered by the board at the informal
39 interview and any other acts or conduct alleged to be in violation of this
40 chapter or rules adopted pursuant to this chapter.

41 ~~I.~~ J. If the board finds that the information provided pursuant to
42 this section warrants suspension or revocation of a license issued under this
43 chapter, the board shall immediately initiate formal proceedings for the
44 revocation or suspension of the license as provided in title 41, chapter 6,
45 article 10. IF NOTICE OF THE HEARING IS SERVED BY CERTIFIED MAIL, SERVICE IS

1 COMPLETE ON THE DATE THE NOTICE IS PLACED IN THE MAIL. At the conclusion of
2 that hearing the board may dismiss the complaint or revoke or suspend the
3 license and may take any combination of actions listed in subsection ~~G~~ H of
4 this section.

5 K. A LICENSEE SHALL RESPOND IN WRITING TO THE BOARD WITHIN THIRTY DAYS
6 AFTER NOTICE OF THE HEARING IS SERVED AS PRESCRIBED IN SUBSECTION J OF THIS
7 SECTION. THE BOARD MAY CONSIDER A LICENSEE'S FAILURE TO RESPOND WITHIN THIS
8 TIME AS AN ADMISSION BY DEFAULT TO THE ALLEGATIONS STATED IN THE COMPLAINT.
9 THE BOARD MAY THEN TAKE ANY DISCIPLINARY ACTION ALLOWED BY THIS CHAPTER
10 WITHOUT CONDUCTING A HEARING.

11 ~~J~~ L. In connection with the board investigation the board or its
12 duly authorized agents or employees at all reasonable times may examine and
13 copy any documents, reports, records or other physical evidence of any person
14 being investigated, or the reports, the records and any of the documents
15 maintained by and in the possession of any hospital, clinic, physician's
16 office, or other public or private agency, and any health care institution as
17 defined in section 36-401, that relate to the person's professional
18 competence, unprofessional conduct or mental or physical ability to safely
19 practice respiratory care. These requests shall be made in writing.

20 ~~K~~ M. Patient records, hospital records, medical staff records,
21 medical staff review committee records, clinical records, medical reports,
22 laboratory statements and reports, any file, film, other report or oral
23 statement relating to the care of patients, any information from which a
24 patient or a patient's family may be identified or information received or
25 reports kept by the board as a result of the investigation procedure
26 prescribed in this chapter and testimony concerning these records and
27 proceedings relating to their creation are not available to the public, shall
28 be kept confidential by the board and are subject to the same provisions
29 concerning discovery and use and legal actions as are the original records in
30 the possession and control of the hospital, the health care institutions or
31 health care providers or other individual, practitioner or agency from which
32 they are secured. The board shall use the records and testimony during the
33 course of investigations and proceedings pursuant to this chapter.

34 Sec. 10. Rulemaking: exemption

35 The board of respiratory care examiners shall adopt rules to implement
36 this act. For the purposes of this act, the board of respiratory care
37 examiners is exempt from the rulemaking requirements of title 41, chapter 6,
38 Arizona Revised Statutes, for one year after the effective date of this act.