



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC Respiratory Care Board	
2. Rule citation & name: <u>21 NCAC 61 .0901</u>	
3. Action: <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
4. Was this an Emergency Rule: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Effective date: March 30, 2020	
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: March 20, 2020 b. Proposed Temporary Rule published on the OAH website: March 23, 2020 c. Public Hearing date: April 13, 2020 d. Comment Period: March 27, 2020-April 20, 2020 e. Notice pursuant to G.S. 150B-21.1(a3)(2): f. Adoption by agency on: May 7, 2020 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: June 11, 2020 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input checked="" type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other: Explain: : On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No. 116, declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. The COVID-19 is a respiratory disease that can result in serious illness or death. The COVID-19, previously unidentified in humans, spreads easily from person to person. Once an outbreak of the COVID-19 begins, it is difficult to contain. The World Health Organization, the Center for Disease Control and Prevention, and the United States Department of Health and Human Services have declared COVID-19 a public health threat and emergency. This National Emergency Response is to ensure respiratory care practitioners can be licensed without any delay by waiving continuing education requirements and late fees pursuant to § 90-652 (9) (13) and § 90-660 (5).	

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No. 116, declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. The COVID-19 is a respiratory disease that can result in serious illness or death. The COVID-19, previously unidentified in humans, spreads easily from person to person. Once an outbreak of the COVID-19 begins, it is difficult to contain. The World Health Organization, the Center for Disease Control and Prevention, and the United States Department of Health and Human Services have declared COVID-19 a public health threat and emergency. This National Emergency Response is to ensure respiratory care practitioners can be licensed without any delay by waiving continuing education requirements and late fees. This action ensures adequate respiratory therapy staffing levels in the health care facilities across NC.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

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Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

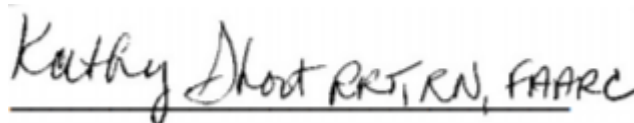
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No

9. Rule-making Coordinator: Name: Dr. William L. Croft, Ed.D,
Ph.D., RRT, RCP, Executive Director
Phone: 919-878-5595
E-Mail: bcroft@ncrcb.org

Agency contact, if any: Dr. William L. Croft, Ed.D, Ph.D.,
RRT, RCP, Executive Director
Phone: 919-878-5595
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10. Signature of Agency Head*:



*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Kathy Short, RRT, RN, FAARC

Title: Board Chair

E-Mail: kshort3552@gmail.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

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Date returned to agency:

TEMPORARY RULES
REQUEST FOR TECHNICAL CHANGE

AGENCY: Respiratory Care Board

RULE CITATION: 21 NCAC 61 .0901

DEADLINE FOR RECEIPT: Friday, May 15, 2020

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Temporary Rulemaking Findings of Need Form:

In Box 2, please provide the Rule name.

In Box 5(e), please provide the date you sent notice to your Interested Persons and those affected by the Rule as required by G.S. 150B-21.1(a3)(2)

In Box 5(g), did you mean June 1, rather than June 11?

In the Rule:

I am only asking – why do you need the language on lines 6-8? Could you simplify this?

On line 8, what do you mean by “and during the effective period of the Temporary Rule”?

Please end the opening clause with a colon, rather than a period, since Paragraphs (a) through (i) end with semicolons and thus, this is a list.

Throughout the Rule, why are you reciting the portion of the Rule you are waiving? Could this language be removed or simplified?

In (a), line 11, is “renewal” addressed by that Rule? I read it as applying to initial licensure.

In (b), line 12, if you are retaining all of the language, please either insert a comma after “(b)(1)” and before “which” or change “which” to “that”

In (c), line 16, you appear to be missing language between “requires” and “the late” Should it be “that requires following the late renewal...”?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 12, 2020

In (g), by waiving this requirement, what will be required to convert the status? Please note, I believe that Paragraph (h) is clear about the action you are taking, so you may want to use this as an example for Paragraph (g).

I am only asking – do you need (j) in light of Paragraph (i)? Or should these be combined?

In the History Note, line 38, please insert a line with “Temporary Adoption Eff. June 1, 2020.” (or June 11, 2020, if that’s the intent.)

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 12, 2020

1 **CHAPTER 61 - NORTH CAROLINA RESPIRATORY CARE BOARD**

2
3 **SECTION .0900 – NATIONAL EMERGENCY RESPONSE WAIVERS FOR CERTAIN RULES**

4
5 **21 NCAC 61 .0901 RULE WAIVERS**

6 In light of the State of National Emergency declared by President Trump as a result of the COVID-19 Virus, and the
7 urgent need to have respiratory care practitioners available to provide respiratory services to patients afflicted with
8 COVID-19 Virus, the Board has determined to waive certain provisions in its rules, as set forth below, and during the
9 effective period of this Temporary Rule.

10 (a) The Board shall waive the requirement for licensure set forth in 21 NCAC 61 .0201 (a) (4) that requires each
11 applicant for renewal to provide a copy of current certification in Basic Life Support (BLS);

12 (b) The Board shall waive the requirement for licensure set forth in 21 NCAC 61 .0201(b) (1) which states that for
13 applicants who have not practiced respiratory care for a period of time greater than one year, but less than five years,
14 the applicant must provide evidence of twelve hours of continuing education, that meet the requirements of 21 NCAC
15 61 .0401, for each full year of inactivity;

16 (c) The Board shall waive the requirement for licensure set forth in 21 NCAC 61 .0204 (a) (4) that requires the late
17 renewal of any license, an additional late fee of seventy-five dollars (\$75.00);

18 (d) The Board shall waive the requirement for licensure set forth in 21 NCAC 61 .0302 (c) that requires each applicant
19 for renewal to provide proof of completion of continuing education requirements as established in this Chapter;

20 (e) The Board shall waive the requirement for licensure set forth in 21 NCAC 61 .0302 (e) that requires each applicant
21 for renewal to provide a copy of current certification in Basic Life Support (BLS);

22 (f) The Board shall waive the requirement for licensure set forth in 21 NCAC 61.0302 (f) that requires licenses lapsed
23 in excess of 24 months shall not be renewable;

24 (g) The Board shall waive the requirement for licensure set forth in 21 NCAC 61.0305 (b) that requires an individual
25 licensed on inactive status to convert his or her license to active status by submission of a renewal application and
26 payment of the renewal fee and late fee and evidence of the completion of a minimum of 12 hours of continuing
27 education that meets the requirements of 21 NCAC 61 .0401 for each full year of inactivity;

28 (h) The Board shall waive the requirement for licensure set forth in 21 NCAC 61.0401 (a) for continuing education
29 requirements, and shall renew licenses without compliance with this provision;

30 (i) The Board shall waive the requirement for licensure set forth in 21 NCAC 61.0401 (e) that requires a licensee to
31 be subjected to a random audit for proof of compliance with the Board's requirements for continuing education; and

32 (j) The Board shall waive the requirement for licensure set forth in 21 NCAC 61.0401 (f) that requires continuing
33 education audits be submitted to the Board no later than 30 days of receipt of the audit notice.

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36 History Note: Authority G.S. 90-652(1); G.S. 90-652(2); G.S. 90-652(9); G.S. 90-652(11); G.S. 90-652(13);

37 Emergency Rule Eff. March 23, 2020