

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Respiratory Care Board

RULE CITATION: 21 NCAC 61 .0202

DEADLINE FOR RECEIPT: June 9, 2016

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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Substantial portions of this Rule repeat G.S. 90-664 and, therefore, are unnecessary. In addition, some of the language in the Rule does not perfectly mirror the statute. Please consider revising the Rule in its entirety as set out below (there are a few additional technical changes in the text that do not merely repeat the statute which are incorporated into the proposed revision):

21 NCAC 61 .0202 EXEMPTIONS

The Board shall exempt persons meeting the requirements of G.S. 90-664 from the requirement of obtaining a license. For the purposes of this Rule:

- (1) Direct supervision shall mean that a respiratory care practitioner licensed by the Board is present in the same facility to supervise a respiratory care student at any time while the student is engaged in the practice of respiratory care. The supervising respiratory care practitioner shall be specifically assigned to the particular student, but more than one practitioner may be assigned to a particular student. A respiratory care student shall not engage in the performance of respiratory care activities without direct supervision by a respiratory care practitioner licensed by the Board.
- (2) Support activities shall include instructions on the use, fitting, and application of apparatus, including demonstrating its mechanical operation for the patient or caregiver, by unlicensed individuals who deliver, set up, and calibrate prescribed respiratory care equipment; but shall not include teaching, administration, or performance of respiratory care. Instructions to the patient or caregiver regarding the clinical use of the equipment and any patient monitoring, patient assessment, or other activities or procedures that are undertaken to assess the clinical effectiveness of an apparatus or to evaluate the effectiveness of the treatment shall be performed by a respiratory care practitioner licensed by the Board or other licensed practitioner operating within their scope of practice.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: May 26, 2016

1 **21 NCAC 61 .0202 EXEMPTIONS**

2 The Board shall exempt the following persons from the requirement of obtaining a license:

- 3 (1) A respiratory care practitioner who is on active duty in the Armed Forces of the United States or
4 serving in the United States Public Health Service, or employed by the Veterans Administration; but
5 this exemption shall only apply to activities and services provided in the course of such service or
6 employment.
- 7 (2) A student or trainee who is working under the direct supervision of a respiratory care practitioner to
8 fulfill an experience requirement or to pursue a course of study to meet licensure requirements. For
9 purposes of this subpart, direct supervision shall mean that a respiratory care practitioner licensed by
10 the Board is present in the same facility to supervise a respiratory care student at any time while the
11 student is engaged in the practice of respiratory care. The supervising respiratory care practitioner
12 must be specifically assigned to the particular student, but more than one practitioner may be assigned
13 to a particular student. A respiratory care student shall not engage in the performance of respiratory
14 care activities without direct supervision by a respiratory care practitioner licensed by the Board.
- 15 (3) A person who provides only support activities as defined in G. S. 90-648(13). Unlicensed individuals
16 who deliver, set up, and calibrate prescribed respiratory care equipment may give instructions on the
17 use, fitting and application of apparatus, including demonstrating its mechanical operation for the
18 patient, or caregiver; but may not engage in the teaching, administration, or performance of respiratory
19 care. Instructions to the patient or caregiver regarding the clinical use of the equipment, and any
20 patient monitoring, patient assessment, or other activities or procedures that are undertaken to assess
21 the clinical effectiveness of an apparatus, or to evaluate the effectiveness of the treatment, must be
22 performed by a respiratory care practitioner licensed by the Board or other licensed practitioner
23 operating within their scope of practice.
- 24 (4) A person who is licensed by another North Carolina licensing board to carry on an occupation, who is
25 acting within the recognized scope of practice for the license issued by that other board, or who
26 otherwise is carrying out functions recognized as appropriate for the licensed person by that board; and
27 any other person who is working under the supervision of such a licensed person, provided that the
28 supervision of the other person also is recognized as being within the appropriate scope of practice or
29 functions of the licensed person. With regard to other persons who are not licensed by a North
30 Carolina licensing board, the Board shall consider whether there is evidence establishing that such
31 persons meet the requirements of G. S. 90-664 (1).

32
33 *History Note: Authority G.S. 90-652(2); 90-664; 90-648(13);*
34 *Temporary Adoption Eff. October 15, 2001;*
35 *Eff. August 1, 2002.*