

21 NCAC 61 .0103 is ~~adopted~~ **amended** with changes as published in 32:12 NCR 1222 – 1226 as follows:

21 NCAC 61 .0103 DEFINITIONS

The definitions of terms contained in G.S. 90-648 **shall** apply to the rules in this Chapter. In addition, the following definitions **shall** apply with regard to these Rules: to the rules in this Chapter:

- (1) **Assessment** **“Assessment”** means a clinical evaluation of ~~the~~ an individual patient and by a Respiratory Care Practitioner (RCP) or other licensed health care provider within their scope of practice to determine the ability and efficacy of a respiratory care procedure ~~procedure, [protocol]~~ protocol, or treatment, including an assessment of the suitability and efficacy of equipment for ~~the~~ an individual patient if equipment is to be used in the procedure or treatment. Assessment can be performed by physician, Respiratory Care Practitioner (RCP) or other licensed health care provider within their scope of practice.
- (2) **Respiratory care** **“Respiratory care”** ~~includes any means acts, tests, procedures, treatments or modalities that are routinely~~ the health care discipline that specializes in the promotion of optimum cardiopulmonary function and health and wellness using scientific principles to identify, treat and prevent acute or chronic dysfunction of the cardiopulmonary system pursuant to G.S. 90-648 (11) that is taught in accredited educational programs pursuant to G.S. 90-653 (3) or in approved continuing education programs pursuant to the rules of this Chapter for respiratory care practitioners and within the guidelines established by the American Association for Respiratory [Care]-Care, that are routinely performed in respiratory care practice settings. [pursuant to G.S. 90-648 (10) (f) which is] incorporated by reference including subsequent amendments and [editions;] editions, pursuant to G.S. 90-648 (10) (f). Copies of the guidelines may be found at <https://www.aarc.org/resources/clinical-resources/clinical-practice-guidelines/> at no cost.
- (3) ~~The practice of respiratory care includes~~ **“The practice of respiratory care”** means the application performance of a range of evaluation assessments and diagnostic tests, and implementation of treatment procedures and protocols related to the observing and monitoring of signs and symptoms, general behavior, and general physical response to respiratory care treatment and diagnostic testing, including the determination of whether such signs, symptoms, reactions, behavior, or general response exhibit abnormal characteristics. In addition to the general activities identified in G.S. 90-648(10), each of the following specific activities constitutes the practice of Respiratory care: the general activities the cardiopulmonary system identified in pursuant to G.S. 90-648(10) and the activities defined by the American Association of Respiratory Care clinical [guidelines] guidelines, [pursuant to G.S. 90-648 (10) (f) which is] incorporated by reference including subsequent amendments and [editions;] editions, pursuant to G.S. 90-648 (10) (f). Copies of the guidelines may be found at <https://www.aarc.org/resources/clinical-resources/clinical-practice-guidelines/> at no cost.
 - (a) ~~the performance of performing pulmonary diagnostic and sleep related testing;~~

- (b) ~~the administration of pharmacologic agents related to respiratory care procedures;~~
- (c) ~~establishment and maintenance of arterial lines for hemodynamic monitoring;~~
- (d) ~~therapeutic evaluation and assessment relating to mechanical or physiological ventilatory support, including positive pressure support apparatus;~~
- (e) ~~airway clearance techniques, postural drainage and chest percussion;~~
- (f) ~~assistance with bronchoscopy;~~
- (g) ~~asthma and respiratory disease management;~~
- (h) ~~cardiopulmonary rehabilitation;~~
- (i) ~~alleviating respiratory impairment and functional limitation by designing, implementing, and modifying therapeutic care plans; plans using evidenced based protocols;~~
- (j) ~~patient instruction in respiratory care, functional training in self care and home respiratory care management, and the promotion promoting and maintenance of respiratory care fitness, health, and quality of life;~~
- (k) ~~those advanced practice procedures that are recognized by the Board in declaratory rulings as being within the scope of respiratory care, when performed by an RCP with appropriate training; and~~
- (l) ~~managing the clinical delivery of respiratory care services through the on-going supervision, teaching and evaluation of respiratory care.~~
- (4) [Medical gases] "Medical gases" mean those inhaled gases used in the treatment of cardiopulmonary disease.
- (5) [Humidity] "Humidity" means adding heat or moisture to an inhaled medical gas.
- (6) [Aerosols] "Aerosols" mean the suspension of particles dispersed in air or gas to deliver medication or humidity to the airways.
- (7) [Pharmacologic agent] "Pharmacologic agent" means a medication or medical gas delivered during a respiratory care procedure for the treatment of cardiopulmonary disease.
- (8) [Hyperbaric oxygen therapy] "Hyperbaric oxygen therapy" means inhalation of high concentrations of oxygen at increased levels of atmospheric pressures within a total body chamber for the treatment of cardiopulmonary disorders or ~~wound management. }wounds.~~
- (9) [Mechanical or physiological ventilatory support] "Mechanical or physiological ventilatory support" means the provision of an apparatus to support gas exchange ~~issues~~ associated with cardiopulmonary dysfunction.
- (10) [Hemodynamic monitoring] "Hemodynamic monitoring" means a procedure required to monitor blood pressure invasively or noninvasively.
- (11) [Diagnostic testing] "Diagnostic testing" means a procedure for assessing the function of the cardiopulmonary system and diagnosing cardiopulmonary disease or sleep related disorders.

- (12) ~~[Therapeutic application]~~ "Therapeutic application" means utilizing evidenced-based protocols, procedures, ~~treatments~~ treatments, or modalities defined in this Chapter to maintain cardiopulmonary health or treat cardiopulmonary disease.
- (13) ~~[Active status]~~ "Active status" means a license issued to an individual after meeting the requirements ~~[pursuant to]~~ of G.S. 90-653.
- ~~[(14) — Individual therapy means the provision of therapy services by one licensee to one patient at a time.]~~
- ~~[(15) — Concurrent therapy means the provision of therapy services by one licensee treating two patients at the same time.]~~
- ~~[(16) — Group therapy means the provision of therapy services by one licensee treating three to six patients at the same time.]~~
- ~~[(17) — Co treatment therapy means the provision of therapy services by more than one licensee from different therapy disciplines to one patient at the same time.]~~
- ~~[(18)]~~ (14) ~~[Endorsement]~~ "Endorsement" means a license issued by the Board recognizing the person named on the certificate as having met the requirements to perform respiratory care procedures pursuant to the rules of this Chapter.

History Note: Authority G.S. 90-652; G.S. 90-648 (2), (10), and (11); G.S. 90-660;
Temporary Adoption Eff. October 15, 2001;
Eff. August 1, 2002;
Amended Eff. September 1, 2010; January 1, 2007; March 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,
2015-2015;
Amended Eff. July 1, 2018.

21 NCAC 61 .0104 is adopted with changes as published in 32:12 NCR 1222–1226 as follows:

21 NCAC 61 .0104 CODE OF ETHICS

(a) ~~The North Carolina Respiratory Care Board has adopted the~~ The American Association of Respiratory Care (AARC) Code of Ethics ~~that are hereby~~ are incorporated by reference, including subsequent amendments and editions. A free copy may be obtained from the American Association of Respiratory Care online at www.aarc.org.

History Note: Authority G.S. 90-652 (3);

Eff. July 1, 2018.

21 NCAC 61 .0301 is ~~adopted~~-amended as published in 32:12 NCR 1222 – 1226 as follows:

21 NCAC 61 .0301 LICENSE NUMBER: DISPLAY OF LICENSE

(a) Each license issued by the Board shall be valid for a period of one year, except as otherwise provided in ~~the Rules in this Section.~~ G.S. 90-654 and G.S. 93B-15.1.

(b) Each individual who is issued a license shall be issued a license number that shall be displayed on the Board's website. Should that number be retired for any ~~reason~~-(reason, such as death, failure to renew the license, or any other ~~reason~~) reason, that number ~~will~~ shall not be reissued. A web-based license verification card showing displaying the status, credentials, degree level, dates for registration, renewal, and expiration date must shall be filed or on display accessible at by the licensee's licensee in their principal place of business so as to be available for inspection in a printed or electronic format. ~~Each licensee also shall keep a copy of the license wallet card available for inspection to anyone on request in the course of delivering services.~~

(c) In accordance with the provisions of G.S. 90-640, whenever a licensee is providing respiratory care to a patient, the licensee shall wear ~~a badge or nameplate~~ identification that displays, in easily readily visible type, the licensee's name ~~followed by a comma~~ and the designation "RCP," ~~that is an abbreviation for respiratory care practitioner.~~ "RCP". Provisional license holders shall wear ~~a badge or nameplate~~ identification which that displays, in easily readily visible type, the licensee's name [name,] and the designation "RCP-Provisional." ~~["RCP-Provisional"].~~ ~~RCP students shall wear a badge or nameplate that displays, in easily visible type, the student's name, the designation "RCP Student" and the name of the school the student is attending. A licensee shall ensure any person working under his or her [supervision,] supervision who is exempted by [G.S. 90-664 (2) and (4),] G.S. 90-664 (2) and (4) is properly identified by wearing identification that designates the person's affiliation and position in readily visible type.~~

History Note: Authority G.S. 90-652(2) ;(4); 90-658(b); 90-640;

Temporary Adoption Eff. October 15, 2001;

Eff. August 1, 2002;

Amended Eff. April 1, 2004;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,

2015-2015;

Amended Eff. July 1, 2018

21 NCAC 61 .0307 is ~~adopted~~ amended with changes as published in 32:12 NCR 1222 – 1226 as follows:

21 NCAC 61 .0307 **GROUND FOR LICENSE DENIAL OR DISCIPLINE**

~~In addition to the conduct set forth in G.S. 90-659, the Board may deny, suspend, or revoke a license, or issue a letter of reprimand to a licensee, upon any of the following grounds: Behaviors.]The following behaviors and conduct that [may] shall constitute unprofessional conduct by persons licensed pursuant to G.S. 90-647 and [may] shall be grounds for license denial or disciplinary action by the Board pursuant to G.S. 90-659 (a) and (b), G.S. 90-652 (4);~~

- (1) ~~Failure failing~~ to meet minimum licensure requirements set by ~~statute~~ Article 38 of G.S. 90 or ~~rule~~ rules of this Chapter;
- (2) ~~Procuring~~, attempting to ~~procure~~, obtain or ~~renewing-renew~~ a license as provided by this ~~part~~ Chapter by bribery, by fraudulent misrepresentation, or by knowingly perpetuating an error of the ~~Board~~ Board;
- (3) ~~Violation of any violating~~ a rule adopted by the Board or of a lawful order of the ~~Board~~ [Board] Board, including violations of the Code of Ethics pursuant to 21 NCAC 61 .0104;
- (4) ~~Engaging engaging~~ in the delivery of respiratory care with a revoked, suspended, or inactive ~~license~~ license;
- (5) ~~Failing failing~~ to perform ~~any~~ a statutory or legal obligation placed upon a respiratory care practitioner licensed pursuant to this ~~part~~ Chapter;
- (6) ~~Failing failing~~ to properly make the disclosures required by ~~21 NCAC 61 .0308~~ 21 NCAC 61 .0308;
- (7) ~~Permitting~~, permitting, aiding, assisting, procuring, or advising ~~any~~ a person to violate ~~any~~ a rule of the Board or provision of the Respiratory Care Practice Act, including engaging in the practice of respiratory care without a ~~license~~ license;
- (8) ~~Having having~~ licensure, certification, registration, or other authority, by whatever name known, to deliver respiratory care revoked, suspended, or otherwise acted against, including the denial of licensure, certification, registration, or other authority to deliver respiratory care by the licensing authority of another state, territory, or ~~country~~ country;
- (9) ~~Willfully willfully~~ failing to report ~~any~~ a violation of these ~~rules~~ rules;
- (10) ~~Unprofessional engaging in unprofessional~~ conduct related to the delivery of respiratory care, ~~which includes, but is not limited to, engaging including in any an~~ act or practice that is hazardous to public health, safety-safety, or ~~welfare~~ welfare;
- (11) ~~Performing performing~~ professional services ~~which that~~ have not been duly ordered by a physician licensed pursuant to G.S. 90, Article 1 and ~~which that~~ are not in accordance with protocols established by the hospital, other health care provider, or the ~~Board~~ Board;
- (12) ~~Accepting accepting~~ and performing professional responsibilities ~~which that~~ the licensee knows, or has reason to know, he or she is not competent to ~~perform~~ perform;
- (13) ~~Delegating delegating~~ professional responsibilities to a person when-if the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or licensure to ~~perform~~ perform;

- (14) ~~Being being~~ unable to deliver respiratory care services with reasonable skill and safety to patients by reason of incapacitating illness or use of alcohol, drugs, narcotics, chemicals, or ~~any other type of material.~~ material; ~~In enforcing this Paragraph, the Board shall, upon probable cause, have authority to compel a respiratory care practitioner to submit to a mental or physical examination by physicians designated by the Board. The cost of examination shall be borne by the licensee being examined. The failure of a respiratory care practitioner to submit to such an examination when so directed constitutes an admission that the licensee is unable to deliver respiratory care services with reasonable skill and safety, upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond his control. A respiratory care practitioner affected under this Paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent delivery of respiratory care with reasonable skill and safety to his patients. Neither the record of the proceedings nor any an order of the Board based solely on a licensee's failure to submit to an examination shall be deemed by the Board to constitute a conclusive determination that licensee engaged in any conduct.~~
- (15) ~~Failing failing~~ to create and maintain respiratory care records documenting the assessment and treatment provided to each ~~patient.~~ patient;
- (16) ~~Discontinuing discontinuing~~ professional services unless services have been completed, the client requests the discontinuation, alternative or replacement services are arranged, or the client is given reasonable opportunity to arrange alternative or replacement ~~services.~~ services;
- (17) ~~Exercising influence within a respiratory care relationship for the purpose of engaging or attempting to engage a patient in a sexual activity.~~ relationship; ~~A patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with the patient's respiratory care practitioner.~~
- (18) ~~Exercising influence on the patient for the financial gain of the licensee or a third party by promoting or selling services, goods, appliances, or drugs that are not medically indicated or necessary.~~ necessary to a patient;
- (19) ~~Making making~~ deceptive, untrue, or fraudulent representations in the delivery of respiratory ~~care or employing a trick or scheme in the delivery of respiratory care.~~ care;
- (20) ~~Circulating false, misleading, or intentionally communicating deceptive advertising.~~ information to a patient;
- (21) ~~Paying paying~~ or receiving any commission, bonus, kickback, or rebate to or from, or engaging in any fee-splitting arrangement in any form whatsoever with, a person, organization, or agency, either directly or indirectly, for goods or services rendered to patients referred by or to providers of health care goods and services, ~~including, including but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or and~~ pharmacies. The provisions of this paragraph shall not be construed to prevent the licensee from receiving a fee for professional consultation ~~services.~~ services;

- (22) ~~Soliciting~~ soliciting patients, either personally or through an ~~agent,~~ agent, through the use of fraud, deception, or otherwise misleading statements or through the exercise by means of intimidation or undue ~~influence.~~ influence;
- (23) ~~Willfully~~ willfully making or filing a false report or ~~record,~~ record or willfully failing to file a report or record required by state or federal law, or willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those reports or records ~~which~~ that require the signature of a ~~respiratory care practitioner or a respiratory therapist licensed pursuant to this part.~~ licensee;
- (24) ~~Being~~ being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction ~~which~~ that directly relates to a licensee's competence or ability to provide respiratory ~~care.~~ care; or
- ~~(25) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances, as set forth by law, for any purpose other than a lawful purpose.~~
- ~~(26)~~ (25) ~~Failing~~ failing to comply with a court order for child support or failing to comply with a subpoena issued pursuant to child support or paternity establishment proceedings as defined in G.S. 110-142.1. In revoking or reinstating a license under this provision, the Board shall follow the procedures outlined in G.S. 93B-13. [G.S. 93B-13;]
- ~~(27) [(26) ——— performing co-treatment, concurrent, group, or individual therapy that is not in accordance with protocols established by the health care organization employing the licensee.]~~

History Note: Authority G.S. 90-652(2), (4); 90-659; G.S. 90-647; G.S. 90-659 (a), (b); G.S. 90-652 (1), (2),(4); 150B-3;
Temporary Adoption Eff. October 15, 2001;
Eff. August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015. 2015;
Amended Eff. July 1, 2018.

21 NCAC 61 .0801 is adopted with changes as published in 32:12 NCR 1222 – 1226 as follows:

21 NCAC 61 .0801 RECEIVING AND PROCESSING COMPLAINTS

(a) Any person who has a concern or adverse information about the conduct or competence of a person licensed by the ~~Board,~~ Board or of a person who has applied to the Board for a ~~license,~~ license may present a complaint to the Board.

(b) Complaints may be delivered to the Board by transmitting a paper copy of the completed complaint by mail, hand-delivery, or other means to the Board's office; by sending the completed complaint form to the email account identified on the Board's website; or by completing the complaint form online on the Board's website at www.ncrcb.org.

(c) Each complaint shall identify the sender of the complaint, provide the sender's contact information, and set forth specific facts known to the sender relating to the conduct or competence of each person who is the subject of the complaint.

(d) Upon receipt of a complaint, the Board's staff shall confirm receipt of the complaint to the sender and shall send each person who is a subject of the complaint, using the mail or electronic mail address of record in the Board's records for each person, a summary of the complaint.

(e) Investigations may be conducted by the Board staff or by other persons authorized by the Board.

(f) The Board staff shall assign a case number to the initial complaint, review the contents of the complaint, and conduct a preliminary review of information to determine whether an individual's conduct or competence relates to the Respiratory Care Practice Act or the Board's rules.

(g) If preliminary information in the complaint does not relate to an individual's conduct or competence related to the Respiratory Care Practice Act or the Board's rules, the Board staff shall close the case and send a notice to the sender and to each person who was the subject of the complaint and no further action shall be taken by the Board.

(h) If the information about an individual's conduct or competence is related to the Respiratory Care Practice Act or the Board's rules, Board staff shall open an investigative file and begin an investigation of the matters described in the complaint.

(i) If the Board staff concludes from the information received that it is possible that there has been a violation of the Respiratory Care Practice Act or the Board's rules, the Board staff shall place the matter on the quarterly schedule of the Board's investigative committee and issue notice to each person who is the subject of the investigation, requesting that each person attend the committee meeting to be interviewed.

(j) When a matter comes before the investigative committee, the committee shall conduct an interview with each person whose conduct or competence is the subject of the investigation if he or she is willing to be interviewed.

(k) The Board shall authorize the Investigative Committee to make a recommendation at the next quarterly Board meeting if the complaint is not resolved by the Investigative Committee.

(l) The Board shall consider the investigative committee recommendation on unresolved complaints at the next regularly scheduled meeting and shall determine ~~what action should be taken.~~ whether to:

- (1) conduct further investigation of particular aspects of the matter;
- (2) close the case;

1 (3) issue a consent order to a subject of an investigation, specifying disciplinary sanctions to be ~~applied,~~
2 ~~and applied and,~~ if the consent order is not accepted, issue a notice of hearing;

3 (4) issue a notice of hearing to a subject, specifying disciplinary sanctions; or

4 (5) apply to the courts for injunctive relief, refer a matter to a district attorney for prosecution, or take
5 other actions, including reporting matter to appropriate state or federal agencies.

6 (m) A copy notice of hearing shall be sent to the complainant.

7 (n) Notification of the Board's final decision shall be sent to the complainant.

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9 *History Note: Authority G.S. 90-652 (2) (5);*

10 *Eff. July 1, 2018.*