

**NORTH CAROLINA RESPIRATORY CARE BOARD  
RALEIGH, NORTH CAROLINA**

IN RE: REQUEST FOR DECLARATORY )  
RULING CONCERNING THE PROVISION OF )  
RESPIRATORY CARE TREATMENTS BY )  
EMERGENCY MEDICAL TECHNICIANS, ) DECLARATORY RULING  
ACTING AS HOSPITAL EMPLOYEES RATHER )  
THAN AS EMPLOYEES OF THE LOCAL )  
EMERGENCY MEDICAL SYSTEM )

I, Floyd Boyer, as Chair of the North Carolina Respiratory Care Board (the “Board”), and based on a resolution by the Board of this date, duly adopted pursuant to N.C. Gen. Stat. § 150B-4, do hereby issue this declaratory ruling. This declaratory ruling will interpret the applicability of N.C. Gen. Stat. § 90-664(1) to circumstances in which an Emergency Medical Technician (EMT) provides respiratory care services, acting as a regular employee of a hospital, rather than as an employee of the local emergency medical system. For the reasons set out below, the Board concludes that an EMT acting in this capacity is not exempt from licensure under the Respiratory Care Practice Act.

The basis for the Board’s conclusion is set forth below in the Analysis section of this declaratory ruling. This ruling is binding upon the Board so long as the material facts stated herein are accurate, but the ruling only pertains to this request. The Board also reserves the right, prospectively, to change the conclusions which are contained in this ruling. This ruling is issued in response to a requests submitted by Mr. Don Huston, manager of Respiratory Care at Moses Cone Memorial Hospital, and Mr. Ronnie Reynolds, Director of Respiratory Care at New Hanover Regional Medical Center.

## **FACTUAL BASIS FOR THE RULING**

Based on information submitted by Mr. Huston and Mr. Reynolds, we understand that the situations relating to their requests involve hospital employment of an EMT as a staff member of the hospital; and that in these circumstances, the EMT is not functioning as an employee of the local EMS System or Specialty Care Transport Program, nor acting under the practice protocols or under the supervision of the EMS Medical Director. While functioning in this role as a member of the hospital staff, the EMT may be involved in performing a range of respiratory care treatments, including aerosolized respiratory care treatments and other oxygen therapy. We also understand that the services provided by an EMT in these circumstances are furnished under the general supervision of a registered nurse, or a respiratory care practitioner, who usually would not be present during the time that the service is rendered. This constitutes the complete and exclusive statement of facts upon which this ruling is based.

## **ANALYSIS**

The provisions to which this declaratory ruling request is addressed are clear and explicit. Those provisions are codified in N.C. Gen. Stat. § 90-664(1) in the North Carolina Respiratory Care Practice Act. In order to come within the exemption granted under this provision, a person must meet each of several different criteria:

- The person must be “registered, certified, credentialed, or licensed to engage in another profession or occupation in this State, or must be working under the supervision of such a person”;
- The person must be performing work incidental to or within the practice of that profession or occupation; and
- The person may not represent himself or herself as a respiratory care practitioner.

In reviewing these requests under the statutory exemption, the Board has been made aware of recent amendments to the statutes relating to emergency medical services, as well as the

recent promulgation of temporary rules by the Office of Emergency Medical Services (OEMS) in the Division of Facility Services, Department of Health and Human Services. These new developments, particularly the portions cited below have been reviewed and considered in detail by the Board in connection with this Declaratory Ruling.

In particular, House Bill 452 which was ratified on June 15, 2001, amended the scope of the statewide Emergency Medical Services System to encompass the following functions:

Statewide Medical Services System includes Emergency Medical Services and also includes first aid by members of the community; public knowledge and easy access into the system; prompt emergency medical dispatch of well-designed, equipped, and staffed ambulances; effective care by trained and credentialed personnel with appropriate disposition at the scene of the emergency and while in transit; communications with the treatment center while at the scene and while in transit; routing and referral to the appropriate treatment facility; injury prevention initiatives; wellness initiatives within the community and the public health system; and follow-up lifesaving and restorative care.

N.C. Gen. Stat. § 143-507(b). In another amendment enacted by House Bill 452, the scope of practice for Emergency Medical Service personnel is still defined by the North Carolina Medical Board:

The North Carolina Medical Board shall determine the scope of practice for credentialed emergency medical services personnel regardless of other provisions of law by establishing the medical skills and medications that may be used by credentialed emergency medical services personnel at each level of patient care. No provision of Article 56 of Chapter 143 or Article 7 of Chapter 131E of the General Statutes shall be interpreted to require the North Carolina Medical Board to include any service within the scope of practice of any Emergency Medical Services provider, unless the North Carolina Medical Board determines that the emergency medical service personnel in question have the experience the training necessary to ensure the service can be provide in a safe manner.

N.C. Gen. Stat. § 143-514.

These cited statutory provisions are addressed in the recent temporary rules published by OEMS:

**10 NCAC 03D .2906 SCOPE OF PRACTICE FOR EMS PERSONNEL**

EMS Personnel educated in approved programs, credentialed by the OEMS, and affiliated with an approved EMS system may perform acts and administer intravenous fluids and medications as allowed by the North Carolina Medical Board pursuant to G. S. 143-514.

**10 NCAC 03D .2907 PRACTICE SETTINGS FOR EMS PERSONNEL**

EMS Personnel may function in the following practice settings in accordance with the protocols approved by the medical director of the EMS System or Specialty Care Transport Program with which they are affiliated, and by the OEMS:

1. at the location of a physiological or psychological illness or injury including transportation to an appropriate treatment facility if required;
2. at public or community health facilities in conjunction with public and community health initiatives;
3. in hospitals and clinics;
4. in residences, facilities, or other locations as part of wellness or injury prevention initiatives within the community and the public health system; and
5. at mass gatherings or special events.

Based on all this, it is clear that the scope of services that Emergency Medical Services Personnel may provide has been expanded slightly, for instance to include injury prevention and wellness initiatives. In addition, under the terms of 10 NCAC 3D .2907, EMT's may function in various practice settings, including in hospitals and clinics. However, we understand that their activities in all these practice settings must be consistent with the scope of practice articulated by the North Carolina Medical Board; and the Emergency Medical Service personnel must be functioning under protocols approved by the Medical Director of the EMS System or Specialty Care Transport program. Essentially, this entails their employment by the EMS System or Specialty Care Transport program, not by the practice setting.

We understand from information obtained by counsel for the Board from OEMS that the EMS systems around the state will have up to one year to submit protocols that would address the practice of an EMT in these other practice settings; and that to date, no EMS system has completed or submitted these protocols. Thus, from the information available currently, it does not appear that an EMT functioning in the role described by Mr. Huston and Mr. Reynolds would be operating under the protocols of the EMS system or Specialty Care Transport Program.

Under the circumstances described in the request for the Declaratory Ruling, it appears at present that all of the activities of an EMT would occur as an employee of the hospital, not while functioning as an employee of the EMS System or Specialty Care Transport Program. Based on our review of all this information it does not appear to us that an EMT functioning in this role can be deemed to be functioning as an employee of the EMS System or Specialty Care Transport program. In addition, no information has been provided indicating that the North Carolina Medical Board has otherwise approved the provision of respiratory care services by an EMT who is working as a direct hospital employee.

We understand from the information provided by Mr. Reynolds that an EMT in the circumstances described would be providing aerosolized treatments, oxygen therapy and other respiratory care procedures. These procedures clearly constitute the practice of respiratory care. The information provided does not indicate that there are other points or issues to analyze, such as whether the individuals are qualified and credentialed as Nurse Aides who function under the supervision of a registered nurse. Therefore, the Board does not address that issue in this ruling. Under the circumstances and based on the information provided, the Board finds that an EMT functioning in this role does not qualify for exemption under N.C. Gen. Stat. § 90-664(1).

**CONCLUSION**

For the foregoing reasons, and based on the information provided, the North Carolina Respiratory Care Board concludes that an EMT who provides respiratory care treatments as a staff member of the hospital must be licensed as a Respiratory Care Practitioner.

This the 16<sup>th</sup> day of April, 2002

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Floyd Boyer, RRT, RCP  
Chair  
North Carolina Respiratory Care Board