

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

**IN RE: REQUEST FOR DECLARATORY)
RULING BY NEW HANOVER) **DECLARATORY RULING**
HEALTH NETWORK)**

I, Joseph Coyle, 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 N.C. Gen. Stat. § 90-664 (1) in regard to the activities of Exercise Specialists and Clinical Exercise Physiologists in hospital-based Cardiac and Pulmonary Rehabilitation Departments.

For the reasons set out below, the Board concludes that N.C. Gen. Stat. § 90-664 (1) does exempt Credentialed Exercise Specialists and Clinical Exercise Physiologists in hospital-based Cardiac and Pulmonary Rehabilitation Departments, as well as Exercise Specialist and Clinical Exercise Physiologist trainees engaged in an organized course of study through those departments, from the requirement of being licensed as Respiratory Care Practitioners, based on the information provided and within the limitations described. The basis for the Board’s conclusion is set forth below in the Analysis section of this declaratory ruling.

Ms. Susan Grimes, RRT, RCP has requested this ruling on behalf of New Hanover Health Network and she has provided the facts on which this ruling is based. This ruling is binding upon the Board so long as the facts that the Board deems to be material are accurately stated, 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.

FACTUAL BASIS FOR THE RULING

Based on information submitted by Ms. Grimes, the Exercise Specialists and Clinical Exercise Physiologists who provide services at New Hanover Health Network work exclusively on the premises of the hospital. Their services are focused upon the testing of cardiac and pulmonary disorders. While performing these services, Exercise Specialists and Clinical Exercise Physiologists work based on specific physician orders from licensed physicians. At all times the Exercise Specialists and Clinical Exercise Physiologists are under the medical supervision of a licensed physician who serves as Medical Director of the Department, and who is on the premises of the hospital during regular business hours.

Exercise Specialists and Clinical Exercise Physiologists at New Hanover Health Network perform the following Respiratory Care practice functions:

- Electrocardiograph monitoring
- Cardiac Stress testing
- Pulmonary Function testing
- Pulse Oximetry
- Oxygen Therapy monitoring

Each of these tasks is performed only by credentialed Exercise Specialists and Clinical Exercise Physiologists, or by a trainee under the circumstances described below.

Exercise Specialists and Clinical Exercise Physiologists are credentialed by the American College of Sports Medicine (ACSM) as Certified Exercise Specialists and/or Registered Clinical Exercise Physiologists. Based upon national job analysis data about the tasks performed by Exercise Specialists and Clinical Exercise Physiologists, ACSM compiles credentialing examinations based upon skills which currently include test questions specifically designed to measure competent job performance in each of the above-listed practice functions.

In order to be credentialed as an Exercise Specialist and/or Clinical Exercise Physiologist, a candidate must achieve a passing score on the ACSM exam(s); and successful candidates receive a certificate issued by the ACSM, confirming their successful completion of the examination(s). Persons who have successfully completed the credentialing exam(s) hold the credential of Certified Exercise Specialist or Registered Clinical Exercise Physiologist.

Exercise Specialist and Clinical Exercise Physiologist trainees follow a defined course of study covering the skills and knowledge needed to pass the Examinations during their period of training. While training, they function under the supervision of a Certified Exercise Specialist, Registered Clinical Exercise Physiologist or licensed Respiratory Care Practitioner.

Under no circumstances do any of these personnel, Exercise Specialists, Clinical Exercise Physiologists or trainees, ever represent themselves as respiratory care practitioners, unless they are licensed by this Board.

This constitutes the complete and exclusive statement of facts upon which this ruling is based.

ANALYSIS

The provisions to which Ms. Grimes' declaratory ruling is addressed are clear and explicit. Those provisions of N.C. Gen. Stat. § 90-664 (1) essentially exempt individuals identified from the requirements of 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.

The Board has reviewed and analyzed each of these requirements. The first addresses whether an individual is engaged in a profession or occupation that is sufficiently well-defined by virtue of some registration, certification, credentialing, or licensing. The Board notes that the

General Assembly chose to recognize several different ways in which such a distinct profession or occupation could be defined. It did not require that the distinct profession or occupation should itself also be subject to professional licensure under the North Carolina General Statutes. The additional references to registration, certification, or credentialing clearly imply a legislative intent to exempt more activities than those for which there is a licensing requirement in the North Carolina Regional Statutes. Thus, in analyzing this part of the exemption provision in N.C. Gen. Stat. § 90-664 (1), the Board may not require that the profession or occupation in question demonstrate that it is subject to State licensing in order to be exempt.

As we understand it from the information provided by Ms. Grimes, each of the enumerated functions performed by Exercise Specialists and Clinical Exercise Physiologists at New Hanover Health Network are among the recognized responsibilities that are addressed and covered by the Certification and Registry Examinations. Thus, each of these tasks falls within the scope of the profession or occupation for which an Exercise Specialist or Clinical Exercise Physiologist is certified or registered and credentialed by virtue of taking the Exam. A person who holds the Certified Exercise Specialist and/or Registered Clinical Exercise Physiologist credential has successfully completed the Examination(s) and has therefore been certified as competent and credentialed to perform each of the numerated services listed. Viewed in this light, we conclude that a person who has passed the Certified Exercise Specialist and/or Registered Clinical Exercise Physiologist examination(s) that is administered by the ACSM and has been credentialed has demonstrated that he or she is credentialed to carry on a distinct occupation, within the meaning of N.C. Gen. Stat. § 90-664 (1).

Under the circumstances described in the request for the Declaratory Ruling, all of the activities of the Exercise Specialists, Clinical Exercise Physiologists or trainee would occur in the clinical environment of a hospital-based Cardiac or Pulmonary Rehabilitation Department, with the ongoing direction provided by a qualified Medical Director, and in an area established for the provision of these services.

In addition, since each of the practice functions identified in the Declaratory Ruling request relates directly to areas covered by the ACSM Certification Exam, we also have concluded that the performance of these functions by a credentialed Exercise Specialist or Clinical Exercise Physiologist is integral to the practice of an Exercise Specialist or Clinical Exercise Physiologist.

By the same token, a trainee Exercise Specialist or Clinical Exercise Physiologist, who performs tasks which are part of a defined educational track that is recognized as leading to eligibility to take the Certification Exam, and who works under the direct supervision of a Certified Exercise Specialist, Registered Clinical Exercise Physiologist or a Respiratory Care Practitioner licensed by the Board, also is within the scope of the statutory exemption.

Finally, Ms. Grimes has also indicated that under no circumstances would any Exercise Specialist, Clinical Exercise Physiologist or trainee who is not licensed as a Respiratory Care Practitioner, represent themselves as a Respiratory Care Practitioner.

Therefore, under the circumstances based on the information provided, the Board finds that any Exercise Specialist or Clinical Exercise Physiologist who holds a ACSM credential and performs only the enumerated functions, without any representation of being a Respiratory Care Practitioner, has met each of the three requirements outlined in the statutory exemption under N.C. Gen. Stat. § 90-664 (1). Also, any Exercise Specialist or Clinical Exercise Physiologist trainee who is following a recognized course of study leading to eligibility for the Certification Exam and is working at all times under the direct supervision of a Certified Exercise Specialist or Registered Clinical Exercise Physiologist or a Respiratory Care Practitioner licensed by the Board, also has met each of the three requirements outlined in the statutory exemption under N.C. Gen. Stat. § 90-664 (1). However, the Board also concludes that the duration of the time period during which any trainee qualifies for the statutory exemption under N.C. Gen. Stat. § 90-664 (1), is two years from the start of training or the date of this ruling, whichever is later.

CONCLUSION

For the foregoing reasons, and within the specific parameters, the North Carolina Respiratory Care Board concludes that pursuant to the current provisions of N.C. Gen. Stat. § 90-664 (1), in performing the functions enumerated above, and so long as they do not represent themselves as Respiratory Care Practitioners, neither Exercise Specialists or Clinical Exercise Physiologists who have passed the credentialing examination, nor Exercise Physiologist trainees who are engaged in a course of study as described above, need to be licensed as Respiratory Care Practitioners.

This the 2nd day of October 2003.

Joseph Coyle, MD
Chair
North Carolina Respiratory Care Board