

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

**IN RE: REQUEST FOR DECLARATORY )  
RULING BY WAKE FOREST UNIVERSITY )     **DECLARATORY RULING**  
BAPTIST MEDICAL CENTER            )**

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 Pulmonary Function Technologists in hospital-based Pulmonary Function Departments or Centers.

For the reasons set out below, the Board concludes that N.C. Gen. Stat. § 90-664 (1) does exempt Pulmonary Function Technologists in hospital-based Pulmonary Function Departments or Centers, as well as Pulmonary Function Technologist trainees 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.

Mr. Rick Sells, RRT, RCP has requested this ruling on behalf of Wake Forest University Baptist Medical Center and he 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 Mr. Sells, the Pulmonary Function Technologists who provide services at Wake Forest University Baptist Medical Center work exclusively on the premises of the hospital. Their services are focused upon the diagnosis of respiratory disorders, and they perform the following Respiratory Care practice functions:

- Pulmonary Function Studies
- Arterial Puncture and Blood Gas Analysis
- Pulse Oximetry
- Bronchodilator Administration for diagnostic purposes only (Pre/Post Pulmonary Function Studies)
- Bronchoscopy Assistance
- Metabolic Testing
- Cardiographic Testing (EKG’s)
- Patient Education related to Pulmonary Function Testing

Each of these tasks is performed only by a credentialed Pulmonary Function Technologist, or by a trainee under the circumstances described below.

While performing these services, Pulmonary Function Technologists and trainees work based on specific physician orders from licensed physicians. At all times the Pulmonary Function Technologists are under the general supervision of a licensed physician who serves as Medical Director of the Pulmonary Function Lab, and who is generally on the hospital campus during regular business hours. In addition, a pulmonologist is on call in the hospital on a regular basis. Pulmonary Function Technologists are credentialed by the National Board for Respiratory Care (NBRC). Based upon national job analysis data about the tasks performed by Pulmonary Function Technologists, the NBRC compiles a Certification examination to test entry level skills and a Registry Exam to test advanced practitioner skills. Each examination currently includes test questions specifically designed to measure competent job performance in each of the listed practice functions. Under no circumstances do any of these personnel ever represent themselves as respiratory care practitioners, unless they are licensed by this Board.

In order to be credentialed as a Pulmonary Function Technologist, a candidate must achieve a passing score on the NBRC exam; and successful candidates receive a certificate issued by the NBRC, confirming their successful completion of the examination. Persons who have successfully completed the Certification Exam hold the credential of Certified Pulmonary Function Technologist (CPFT). Persons who have successfully completed the more advanced Registry Exam hold the credential of Registered Pulmonary Function Technologist (RPFT).

Pulmonary Function Technologist trainees follow a defined course of study covering the skills and knowledge needed to pass the Examinations during their period of training. During their work at the hospital, the trainees would perform all these functions under supervision by a Pulmonary Function Technologist or a Respiratory Care Practitioner licensed by this Board.

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

### **ANALYSIS**

The provisions to which Mr. Sells' 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 General 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 Mr. Sells, each of the enumerated practice functions are among the recognized responsibilities that are addressed and covered by the Certification or Registry Examinations and hence each of these tasks falls within the scope of the profession or occupation for which a Pulmonary Function Technologist is certified or registered and credentialed by virtue of taking the applicable Exam. A person who holds the CPFT or RPFT 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 Certification and/or Registry Exam for Pulmonary Function Technologist that is administered by the NBRC 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 Pulmonary Function Technologists or trainees would occur in the clinical environment of a hospital Pulmonary Function Lab, 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 NBRC Certification or Registry Exam, we also have concluded that the performance of these functions by a credentialed Pulmonary Function Technologist is integral to the practice of pulmonary function technology.

By the same token a Pulmonary Function Technologist trainee who performs tasks which are part of a defined educational track that is recognized as leading to eligibility to take the Certification and/or Registry Exam, and who works under the direct supervision of a credentialed Pulmonary Function Technologist or a Respiratory Care Practitioner licensed by the Board, also is within the scope of the statutory exemption.

Finally, Mr. Sells has also indicated that under no circumstances would any Pulmonary Function Technologist 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 Pulmonary Function Technologist who holds the CPFT or RPFT 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 Pulmonary Function Technologist trainee who is following a recognized course of study leading to eligibility for the Certification or Registry Exam and is working at all times under the direct supervision of a Pulmonary Function

Technologist who holds the CPFT and/or RPFT credential 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 Pulmonary Function Technologist trainee qualifies for the statutory exemption under N.C. Gen. Stat. § 90-664 (1), is two years from the start of training or date of this ruling, whichever is later.

### **CONCLUSION**

For the foregoing reasons, and within the specific parameters of a hospital based Pulmonary Function Lab 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 Pulmonary Function Technologists who have passed the Certification and/or Registry Exam nor Pulmonary Function Technologist trainees who are engaged in a course of study as described above, need to be licensed as Respiratory Care Practitioners, while employed at hospital-based Pulmonary function Departments or Centers.

This the 2<sup>nd</sup> day of January 2003

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Joseph Coyle, MD  
Chair  
North Carolina Respiratory Care Board