REPORT OF THE NORTH CAROLINA RESPIRATORY CARE BOARD
July 1, 2018 – June 30, 2019

To: Attorney General Josh Stein
Secretary of State Elaine Marshall
Joint Legislative Administrative Procedure Oversight Committee
State Publications Clearinghouse

From: William L. Croft, Ed.D. Ph.D., RRT, RCP
Executive Director
North Carolina Respiratory Care Board

Re: Report of Activities of the North Carolina Respiratory Care Board
July 1, 2018 – June 30, 2019

INTRODUCTION

The North Carolina Respiratory Care Board was established by Act of the General Assembly during its 2000 session, with the passage of the North Carolina Respiratory Care Practice Act *(RCPA).* The Act is codified at N.C. Gen. Stat. § 90-646 *et seq.* This report is being submitted at the direction of the Board, and after being approved by the Board at its regular quarterly meeting on July 11, 2019, to fulfill its duty under N.C. Gen. Stat §93B-2 (a), to submit an annual report addressing the following 11 items, and to submit an annual financial report, (attached), under N.C. Gen. Stat §93B-2 (b).

(1) The address of the Board, and the names of its members and officers

North Carolina Respiratory Care Board
125 Edinburgh South Drive, Suite 100
Cary, NC 27511
www.ncrcb.org
Phone (919) 878-5595
FAX (919) 878-5565

Chairman
Kathy Short, RN, RCP (7)
Appointment Expires: October 31, 2021

Secretary
Mary Hooks, R. Ph. (5)
Appointment Expires: October 31, 2021

Vice Chairman
Robin Ross, RCP (2)
Appointment Expires: November 30, 2019

Treasurer
Nevius Toney (1)
Appointment Expires: October 31, 2021

Michael Nay, RCP (3)
Appointment Expires: October 31, 2021

Eric L. Olson, MD (3)
Appointment Expires: August 31, 2021

Lawrence Klima, MD (4)
Appointment Expires: October 31, 2019

Bernard Nobles (1)
Appointment Expires: October 31, 2020

Samuel Jones, MD (6)
Appointment Expires: October 31, 2021

Vacant Board Position (2)
Appointment Expires: October 31, 2021

Open Seats: One seat vacated by Daniel Mulcrone, MD.

Appointments Code: (1) Governor (2) President Pro Tem of the Senate (3) Speaker of the House (4) NC Medical Society (5) NC Medical Equipment Association (6) Old North State Medical Society (7) NC Hospital Association

Executive Director: William L. Croft, Ed.D., Ph.D., RRT, RCP

(1a) The total number of licensees supervised by the board. (new, added 2014-120, s.4)

As of June 30, 2019, the North Carolina Respiratory Care Board was supervising 4837 Active and 63 Inactive licensees. This number varies throughout the year.

(2) The number of persons who applied to the Board for examination:

The North Carolina Respiratory Care Board utilizes the services of the National Board for Respiratory Care (NBRC) to conduct examinations of candidates for the Respiratory Care Practitioner License, and candidates pay their fees directly to NBRC. Based on data obtained from the NBRC, 364 persons who were residents of North Carolina applied between July 1, 2018, and June 30, 2019, to take the NBRC examination, but the Board does not have information to determine which of these persons applied for licensure in North Carolina but we received 188 licensee applications from NC Residents.

(3) The number who were refused examination: 0

(4) The number who took the examination:

As indicated above, 523 applied for licensing but 227 residents of North Carolina took and passed the NBRC examination between July 1, 2018, and June 30, 2019. The remaining applicants already held the required credential for licensing. A total of 523 persons applied for initial licensure in North Carolina between July 1, 2018, and June 30, 2019. Of the 523 applications, there are 106 pending licenses and 39 that failed to complete or withdrew their application.

(5) The number to whom initial licenses were issued: 378

(5a) The number who failed the examination. (new, added S.L. 2014-Chapter 120, s.4): 124

(6) The number who applied for license by reciprocity or comity: 0

(7) The number who were granted licenses by reciprocity or comity: 0

(7a) The number of official complaints received involving licensed or unlicensed activity: 37

(7b) The number of disciplinary actions taken against licensees: 11; The number of other actions taken against non-licensees: 0

(8) The number of licenses suspended or revoked this fiscal year: 2

(9) The number of licenses terminated this fiscal year for any reason other than failure to pay the required renewal fee: 2

(9a) The number of applicants for a license: 523; The number granted a license: 378

(9b) The number of applicants with a conviction record: 0; The number of applicants with a conviction record granted a license: 0; Denied a license for any reason: 0; and Denied a license because of a conviction: 0 Data not available for 2019.

(10) The substance of any anticipated request by the occupational licensing board to the General Assembly to amend statutes related to the occupational licensing board: See discussion below

Discussions at Board meetings and among respiratory care practitioners led to the request to amend the practice act through Representative Boles office as a Proposed Committee Substitute (PCS) since the deadline for submitting bills had passed. As of June 30, 2019, the PCS has not been attached to any legislation. The amendments update language and add clarification to the existing law: 1) Definitions added for endorsement that will define advanced practice requirements; 2) The power and duty of the Board was updated to include establishing and adopting rules that define the education and credential requirements for persons seeking endorsement; 3) Technical changes updates language for accreditation and testing changes, and 4) Provisional and temporary license language was deleted since this will be done through endorsement. In addition, there were no changes to credentials or educational requirements except clarifying the AAS degree as the minimal requirement.

The NCRCB believes that passage of this amendment would streamline Article 38 by updating and clarifying the language of the act. There is no financial impact that has been identified.

Amending the RCPA

The amendments to the Respiratory Care Practice Act essentially fall into several broad categories and may necessitate amendments to the rules regarding; 1) clarifying changes relating to defining the endorsements related to the advance practice scope for respiratory care; 2) clarifying the language regarding education including the names of agencies which have changed since the passage of the RCPA; and 3) adding language to maintain pace of respiratory care profession as it moves toward advanced practice that requires Board oversight. The licensure provisions of the Bill become effective. Below are the major changes recommended in the PCS:

Several parts of the changes address the scope of practice of respiratory care:

- § 90-648 (14) Endorsement definition: A certificate issued by the Board to a licensee recognizing the person named on the certificate as having met the requirements to perform respiratory care procedures that require additional educational, training, or credentialing requirements as established by the Board and that are in addition to the requirements for licensure under this Article". Since 2000 when the RCPA passed, many of the added procedures are considered advanced practice, thus require greater levels of training. Changes allow the Board to write rules that would ensure the public safety when performing

such activities. Licensees would be issued endorsements by the board to ensure the licensee documents the training. This change is based on discussions of the Joint Legislative Administrative Procedure Oversight Committee to have one license and options added for endorsements to improve the efficiency of the Board. The recommendation was part of Senator Andy Well's presentation.

- § 90-648 (15) and § 90-648 (16) Advanced Practice definitions: These changes provide clarification of the advanced procedures licensee who must work under the supervision of physician and the definition for advanced practice. These tasks have been determined by the American Association for Respiratory Care (AARC). According to the AARC, the Advanced Practice Respiratory Therapist is a credentialed, licensed respiratory care practitioner trained to provide a scope of practice that exceeds that of the registered respiratory therapist. After obtaining the NBRC RRT credential, the aspiring Advanced Practice Respiratory Therapist must successfully complete a CoARC-accredited graduate level education and training program that enables the Advanced Practice Respiratory Therapist to provide advanced, evidence-based, diagnostic and therapeutic clinical practice and disease management. As part of a physician-led team, Advanced Practice Respiratory Therapist s are trained to provide diagnostic, therapeutic, critical care and preventive care services in multiple settings across the healthcare spectrum. They take medical histories and record progress notes; examine, treat, and counsel patients; order and interpret laboratory tests, imaging studies, and diagnostics; and provide acute, critical, and chronic care to patients. According to the CoARC accreditation standards, the primary role of the Advanced Practice Respiratory Therapist under the leadership of a physician is to serve as a physician extender. This definition clarifies the need of this licensee to be supervised when performing advanced procedures identified by the AARC.

The PCS clarifies the provisions that relate to its relationship with persons who are not licensed by it:

- § 90-648 (13) revises the definition of "support activities" that are exempt in 90-648 (13): "the term "support activities" does not include evaluation or assessment of the therapeutic effectiveness of any respiratory care treatment or respiratory care equipment for an individual patient." Clarifies the definition of Support Activities for which no respiratory care license is required which was requested by Durable Medical Equipment industry representatives.

The PCS clarifies the provisions that relate to the duties of the board:

- § 90-652 (14): "Establish and adopt rules defining the education and credential requirements for persons seeking endorsement under this Article." This section allows the Board to adopt rules to define the requirements for the endorsement requirements as established in Section 1.

The PCS updates language related to education, credentialing, and testing:

- § 90-653(a) (1) clarifies language regarding the submission of fingerprints and consent for a criminal record during the application process.

- § 90-653(a) (5) with reference to examination requirements: "Submit to the Board written evidence, verified by oath, that the applicant passed the Therapist Multiple-Choice (TMC) and the Clinical Simulation Examination (CSE) given by the National Board for Respiratory Care, Inc or its successor." This denotes a technical name change by the NBRC for the required exam. It does not affect any of the current licensees. Requires applicants submit written evidence that they have passed the national TMC and CSE examination rather than the entry-level exam since all person passing the exam are eligible for licensing.

- § 90-653(a)(3) amends the language to delete the "Commission for Accreditation of Allied Health Educational Programs, or the Canadian Council on Accreditation for Respiratory Therapy Education" and adds "Commission on Accreditation for Respiratory Care (CoARC) or its successor by arranging for the

applicant's respiratory care education program to submit a verified transcript directly to the Board". This change updates the references to pertinent educational requirements. Clarifies language for the accrediting agency and codifies the degree requirements in place since 2000. Allows electronic transcripts to be sent to the board to expedite the licensing process.

This PCS eliminates fees required for endorsements:

- ❑ § 90-660(b)(6) is eliminated from the RCPA. This keeps the fee structure the same for forms of licensing.

This PCS extends the Provisional and Temporary licensing times frame or renewals:

- ❑ § 90-654 extends the temporary license from 90 days to 12 months.

- ❑ § 90-656 allows the provisional licenses to renew by striking out the maximum time for the license at 12 months provided they meet the requirements under § 90-653(a)(3).

Over the past 17 years, NCRCB has made strenuous efforts to enhance the practice of respiratory care in North Carolina. We have made regular presentations to the North Carolina community college respiratory care programs to alert future practitioners to the role and mission of the Board. We have worked closely with the North Carolina Society for Respiratory Care, which is the state association of respiratory professionals, to keep them informed about the board's activities and to stay current with the challenges they face in their everyday practice. The NCRCB has also been actively involved in the national dialogue about the future development of respiratory care through our work with the National Board for Respiratory Care, the American Association of Respiratory Care, and the Commission on Accreditation for Respiratory Care

In keeping with our mission, NCRCB has been involved in the following initiatives:

- Ensuring that Respiratory Departments in health care organizations are staffed at levels that permit good care to be provided to patients;
- Issuing Declaratory Rulings and Position Statements to guide practitioners in administering increasingly complex procedures in new work environments;
- Addressing licensure issues affecting current and former military personnel;
- Increasing respiratory education levels for those procedures and skills requiring advanced training;
- Establishing a relationship with a counseling service that can provide treatment and support for practitioners facing psychological or chemical dependency issues;
- Developing intervention policies to address psychological or chemical dependency issues;
- Implementing procedures based on observed abnormalities of appropriate reporting or referral or respiratory care protocols, or changes in the treatment regimen, pursuant to a prescription by a physician;
- Improving Board efficiencies including adding educational and credential levels, complaint tracking, and date of last renewal for the online verifications to the website;
- Utilizing technology to provide more effective and efficient service to the public and licensees to include a survey system for supervisory reports, complaint tracking, and continuing education monitoring and compliance program; and
- Exploring arrangements with a company that manages continuing education compliance for health care professionals to provide a convenient way for Respiratory Care Professionals licensed by the Board to comply with continuing education requirements.

(11) The number of applicants who applied for licensure pursuant to G.S. 93B-15.1(k): 2

(12) The number of licenses granted pursuant to G.S. 93B-15.1(k): 2

(13) The substance of any anticipated change in rules adopted by the occupational licensing board or the substance of any anticipated adoption of new rules by the occupational licensing board.

The following rules were amended or adopted during the 2017-2018 fiscal year and enacted July 1, 2018.

- 21 NCAC 61 .0104: Code of Ethics
- 21 NCAC 61 .0103: Definitions
- 21 NCAC 61 .0301: License Display
- 21 NCAC 61 .0307: Grounds for License Denial or Discipline
- 21 NCAC 61 .0801: Disciplinary Process

The above Rules were adopted or amended in 2018 included those rules pursuant to § 93B‑17 and § 93B‑18 in the proposed S735 titled, *Amend Occupational Licensing Boards Statutes*. These new rules included the NCRCB's receipt and resolution of complaints, disciplinary or enforcement actions against licensees, and enforcement actions against persons not licensed by the board. The rules clarified the investigative process involving licensees as currently published in the NCRCB Disciplinary Manual as well as adding rules for unlicensed activity. For the licensed and unlicensed individual or entity, the rule will include notifying licensed and unlicensed persons and entities of the possible violation of the law and administrative rules and any civil action or criminal penalty that may be imposed by a court without indicating that the board has made any finding of a violation. The rules may indicate the board's belief or opinion that a particular act may violate the board's enabling statutes, include factual information regarding legislation and court proceedings concerning the potential violation, and provide notice of the board's intention to pursue administrative remedies or court proceedings with regard to the potential violation. In addition, the Board clarified definitions regarding respiratory care, the practice of respiratory care, and defined procedures within the practice act.

The following rules were amended or adopted during the 2018-2019 fiscal year and enacted June 1, 2018.

- 21 NCAC 61 .0204: Fees

The Board will review its rules based on ratified version of these PCSs and other considerations and consider proposing changes to its rules during the 2019-2020 fiscal year, including the following specific rules:

- 21 NCAC 61 .0103 DEFINITIONS
- 21 NCAC 61 .0201 APPLICATION PROCESS
- 21 NCAC 61 .0303 LICENSE WITH PROVISIONAL ENDORSEMENT
- 21 NCAC 61 .0304 LICENSE WITH TEMPORARY ENDORSEMENT

If PCS is introduced, the need for changes to the above rules will be determined and new rules created if required. The Respiratory Care Practice Act which essentially fall into several broad categories and may necessitate amendments to the above rules regarding; 1) clarifying changes relating to defining the endorsements related to the advance practice scope for respiratory care; 2) clarifying the language regarding education including the names of agencies which have changed since the passage of the RCPA; and 3) adding language to maintain pace of respiratory care profession as it moves toward advanced practice that requires Board oversight; however, there are no specific scope of practice issues included in the PCS. The licensure provisions of the PCS become effective.

CONCLUSION

The North Carolina Respiratory Care Board appreciates the opportunity to make this report, highlighting our activities and achievements over the past 12 months and identifying additional issues to be addressed in the future. The Board is committed to carrying out the charge given it by the enactment of the Respiratory Care Practice Act. We look forward to working with the Governor, General Assembly, and all interested parties in ensuring that the health, safety, and welfare of the citizens of North Carolina is protected, and providing for an effective and efficient regulation of the practice of Respiratory Care.

Copies of Board Minutes and other materials will be made available on request. Please direct any comments or questions to the Board at the address shown below.

Respectfully submitted, this 11th day of July 2019,

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