NORTH CAROLINA RESPIRATORY CARE BOARD
POSITION STATEMENT ON
INTERSTATE TRANSPORT OF PATIENTS BY RESPIRATORY CARE PRACTITIONERS

INTRODUCTION

The North Carolina Respiratory Care Board ("NCRCB) is charged with administering the Respiratory Care Practice Act ("RCPA"), enacted by the North Carolina General Assembly. This Position Statement addresses those rare and time-limited situations in which a patient who is receiving respiratory care must be transferred to or from an out-of-state facility, and the ability of respiratory care practitioners or other health professionals who are licensed in another state to provide respiratory care and services during those transfers, on a limited and carefully supervised basis.

The RCPA is founded on a determination that the practice of respiratory care, as defined in the statute, "affects the public health, safety and welfare," and that persons practicing respiratory care should be licensed to ensure a minimum standard of competency in the practice of Respiratory Care and to protect the citizens of North Carolina from the unqualified practice of Respiratory Care, and from unprofessional conduct. N.C. Gen. Stat. 90-647. Thus, at its core, the RCPA was enacted to protect the public and ensure that essential health care services are delivered effectively.

NCRCB recognizes that in today's health care environment, situations will arise where the clinical expertise or technical capability available at a health care facility located in a different state is determined to be essential to the effective treatment of a particular patient, and that circumstances will arise where the medically appropriate course of action is to discharge the patient directly to the out-of-state facility, with provision for the continuity of respiratory care and other services during the transfer. However, it may be completely impractical for an out-of-state facility that is only occasionally receiving North Carolina patients or transferring patients to North Carolina facilities, to obtain and maintain North Carolina licensure for every staff member who might be involved in one of those transfers, and be engaged in providing respiratory care and services.

NCRCB has been asked to interpret the relevant provisions of statutes and rules relating to a Respiratory Care Practitioner (RCP) or other health care professional who is licensed in another jurisdiction and is acting within the scope of his / her licensed practice, to provide respiratory care or services during the transport of a patient into and out of North Carolina and to determine if those RCP's may provide respiratory care during the transport without being licensed in North Carolina. This Position Statement is being issued in response to a request received from a particular health care organization, and has been adopted as a Position Statement in order to give it the broadest possible circulation and effect, in light of the importance of the issue. Accordingly, NCRCB has analyzed the potential issues under the RCPA to develop this Position Statement; but reserves the right to update, revise and revoke this Position

Statement as it deems appropriate. NCRCB will publish notice of any such action on its website.

BACKGROUND

This Position Statement addresses circumstances when a patient has been admitted as an inpatient at a health care facility, and part of the care of that patient entails the ongoing provision of respiratory care, as defined in the RCPA. Due to the nature of the clinical skills or technical facilities required, or for other medical reasons such as family considerations, a North Carolina patient is determined to have an urgent need for care at an out-of-state health care facility, or a patient in an out-of-state facility is determined to need care at a North Carolina facility, and the circumstances make it preferable to have the out-of-state facility handle the transportation of the patient to or from North Carolina. This Position Statement applies under these circumstances, and when **ALL** of the following conditions are met:

1. During the transportation of the patient by the out-of-state facility, it is completely and exclusively responsible for the maintenance and operation of any vehicle or equipment that is used to provide respiratory care.

2. Each staff member of the out-of-state facility who is involved in the provision of respiratory care during the transportation of the patient is directly employed or supervised by the out-of-state facility; functions within the scope of protocols and procedures adopted by the out-of state facility, including those which address the transportation of patients; and only performs activities during the transport that lie within the scope of a professional license issued by a licensing board in the home state of the out-of state facility.

3. In situations involving transportation of a patient from a North Carolina facility, the patient is discharged from the North Carolina facility to the out-of-state facility and there is a formal transfer of the responsibility for the patient's care from the North Carolina facility to the out-of-state facility at the time of that discharge.

4. Staff of the out-of-state facility may consult with staff of the North Carolina facility at all appropriate times, but before a discharge of a North Carolina patient, and after admission of a transported patient to a North Carolina facility, no person who is not duly licensed in North Carolina may provide respiratory care to the patient.

5. At no time during the transport of the patient may any staff member of the out-of state facility provide any respiratory care to any other individual in North Carolina without a North Carolina license, or justification under North Carolina's Good Samaritan Law.

6. The transport route taken within the borders of North Carolina is the most direct route practicable under the circumstances, and under normal circumstances, the entire duration of the transport within North Carolina will not exceed five hours.

ANALYSIS

In circumstances where there is an urgent need to transfer a patient to a facility in another state, or to receive a transfer of a patient from another state, the NCRCB has determined that the RCPA should be interpreted in light of its basic purposes and in recognition of the imperative to transfer a patient safely and effectively.

NCRCB is aware that some other state statutes contain explicit licensure exemptions to address this situation. Although there currently is no such express exemption in the North Carolina Law, NCRCB nevertheless believes that recognizing such an exemption through this Position Statement is consistent with the fundamental purposes of the RCPA, so long as every one of the foregoing conditions is met.

When every one of the foregoing principles are observed, the out-of-state facility and its staff effectively assume complete responsibility for the care of the patient during the transport:

- In the case of a transport into North Carolina, the supervision and direction of the care of the transported patient will remain with the facility and staff that have been providing that care up to the point of transport. During the transport, the patient will continue to receive respiratory care pursuant to the protocols of the out-of-state facility, using its equipment and under the supervision of its staff. This will help to ensure continuity of care for the patient during the transport.

- In the case of a transport of a North Carolina patient, there will be a formal discharge of the patient to the out-of-state facility, and staff of the out-of-state facility will assume full control and responsibility for the care of the patient, using its equipment and following its protocols.

Finally, any respiratory care or services provided will be exclusively focused on the patient who is being transported, and will occur only over a short period of time in North Carolina.

CONCLUSION

Based on the foregoing analysis, NCRCB concludes that in situations which meet each of the conditions stated above, no North Carolina RCP license is required under the RCPA. However, out-of-state facilities that develop a regular, foreseeable interchange of patients with North Carolina facilities should give strong consideration to seeking North Carolina licensure for personnel involved in such transfers, or making arrangements for respiratory care practitioners licensed in North Carolina to be available during the transport.