21 NCAC 61 .0307 GROUNDS FOR LICENSE DENIAL OR DISCIPLINE

The following behaviors and conduct that shall constitute unprofessional conduct by persons licensed pursuant to G.S. 90-647 and shall be grounds for license denial or disciplinary action by the Board pursuant to G.S. 90-659(a) and (b), G.S. 90-652(4);

(1) failing to meet minimum licensure requirements set by Article 38 of G.S. 90 or rules of this Chapter;

(2) attempting to obtain or renew a license as provided by this Chapter by bribery, by fraudulent misrepresentation, or by knowingly perpetuating an error of the Board;

(3) violating a rule adopted by the Board or of a lawful order of the Board, including violations of the Code of Ethics pursuant to 21 NCAC 61 .0104;

(4) engaging in the delivery of respiratory care with a revoked, suspended, or inactive license;

(5) failing to perform a statutory or legal obligation placed upon a respiratory care practitioner licensed pursuant to this Chapter;

(6) failing to make the disclosures required by 21 NCAC 61 .0308;

(7) permitting, aiding, assisting, procuring, or advising a person to violate a rule of the Board or provision of the Respiratory Care Practice Act, including engaging in the practice of respiratory care without a license;

(8) having licensure, certification, registration, or other authority, by whatever name known, to deliver respiratory care revoked, suspended, or otherwise acted against, including the denial of licensure, certification, registration, or other authority to deliver respiratory care by the licensing authority of another state, territory, or country;

(9) willfully failing to report a violation of these Rules;

(10) engaging in unprofessional conduct related to the delivery of respiratory care, including an act or practice that is hazardous to public health, safety, or welfare;

(11) performing professional services that have not been duly ordered by a physician licensed pursuant to G.S. 90, Article 1 and that are not in accordance with protocols established by the hospital, other health care provider, or the Board;

(12) accepting and performing professional responsibilities that the licensee knows, or has reason to know, he or she is not competent to perform;

(13) delegating professional responsibilities to a person if the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or licensure to perform;

(14) being unable to deliver respiratory care services with reasonable skill and safety to patients by reason of incapacitating illness or use of alcohol, drugs, narcotics, chemicals, or other material;

(15) failing to create and maintain respiratory care records documenting the assessment and treatment provided to each patient;

(16) discontinuing professional services unless services have been completed, the client requests the discontinuation, alternative or replacement services are arranged, or the client is given reasonable opportunity to arrange alternative or replacement services;

(17) engaging or attempting to engage a patient in a sexual relationship;

(18) promoting or selling services, goods, appliances, or drugs that are not medically indicated or necessary to a patient;

(19) making deceptive, untrue, or fraudulent representations in the delivery of respiratory care;

(20) intentionally communicating deceptive information to a patient;

(21) paying or receiving any commission, bonus, kickback, or rebate to or from, or engaging in any fee-splitting arrangement in any form whatsoever with, a person, organization, or agency, either directly or indirectly, for goods or services rendered to patients referred by or to providers of health care goods and services, including hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, and pharmacies. The provisions of this paragraph shall not be construed to prevent the licensee from receiving a fee for professional consultation services;

(22) soliciting patients, either personally or through an agent, through by means of intimidation or undue influence;

(23) willfully making or filing a false report or record or willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those reports or records that require the signature of a licensee;

(24) being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that relates to a licensee's competence or ability to provide respiratory care; or

(25) failing to comply with a court order for child support or failing to comply with a subpoena issued pursuant to child support or paternity establishment proceedings as defined in G.S. 110-142.1. In revoking or reinstating a license under this provision, the Board shall follow the procedures outlined in G.S. 93B-13.

History Note: *Authority G.S. 90-652(2),(4); 90-647; 90-659(a),(b); 90-652(1),(2),(4); 150B-3;*
Temporary Adoption Eff. October 15, 2001;
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