

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control _____ Department or Agency: Alabama State Board of Respiratory Therapy
Rule No.: 798-X-5-.16(3)
Rule Title: Exemptions from Licensure
_____ New X Amend _____ Repeal _____ Adopt by Reference _____

Would the absence of the proposed rule significantly Harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's Police power and the protection of the public health, Safety, or welfare? Yes

Is there another, less restrictive method of regulation Available that could adequately protect the public? No

Does the proposed rule have the effect of directly or Indirectly increasing the costs of any goods or services Involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public Than the harm that might result from the absence of The proposed rule? No

Are all facets of the rulemaking process designed solely For the purpose of, and so they have, as their primary Effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer 
Paula McCaleb, Executive Director 334.396.2332

Date: April 20, 2011

(DATE FILED)

Alabama State Board of Respiratory Therapy

NOTICE OF INTENDED ACTION

AGENCY NAME:

Alabama State Board of Respiratory Therapy

RULE NO. & TITLE:

798-X-5-.16(3) Exemptions from Licensure

INTENDED ACTION:

To amend

SUBSTANCE OF PROPOSED ACTION:

The Alabama Board of respiratory Therapy proposes to amend an Administrative Code or Rules and regulations under which to operate. Specifically, the proposed amendment is to update language for grounds for discipline.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Written comments, views, or arguments will be received by the Alabama State Board of Respiratory Therapy until 4:30 p.m. June 2, 2011. Comments should be directed to Paula McCaleb, Executive Director, at P.O. Box 241386, Montgomery, AL 36124-1386, or via fax at 334-396-2384. A public hearing will be held at 2:00 p.m. on June 3, 2011 at 2011 Berry Chase Place, Montgomery, AL 36117.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

June 3, 2011

CONTACT PERSON AT AGENCY:

Paula McCaleb, Executive Director
334.396.2332



Paula McCaleb, Executive Director

798-X-5-16 Exemptions from Licensure

Nothing in these rules shall be construed as preventing or restricting the practice, services, or activities of the following:

- (1) Any person who is licensed in Alabama or certified by the organization accredited by the National Commission for Certifying Agencies and acceptable to the state from engaging in the profession or occupation for which the person is licensed or certified.
- (2) Any person employed by the United State government who provides respiratory therapy solely under the direction or control of the United States government agency or organization.
- (3) Any person receiving clinical training while pursuing a course of study leading to registry or certification in a respiratory therapy educational program accredited by the CAAHEP in collaboration with the CoARC or their successor organizations. This person will be under direct supervision and be designated by a title clearly indicating his or her status as a student or trainee.
- (4) Any emergency medical technician licensed by the Alabama State Board of Health who is providing care to a patient at the scene of an emergency, or during transport of the patient in a licensed ground ambulance, provided that such care may not exceed the scope of care permissible under the rules of the Alabama State Board of Health.
- (5) The delivery of respiratory therapy of sick or disabled persons by family members or domestic servants, or the care of non-institutionalized persons by a surrogate family member, as long as the persons do not represent themselves as, or hold themselves out to be, respiratory therapists.
- (6) Any individual who has demonstrated competency in one or more areas covered by these rules as long as the individual performs only those functions that he or she is qualified by examination to perform. The standards of the National Commission for Certifying Agencies, or its equivalent, shall serve as a standard with which to evaluate those examinations and examining organizations.
- (7) Any person performing respiratory services or care not licensed as a respiratory therapist in accordance with these rules who is employed in a diagnostic laboratory, physician's office, clinic, or outpatient treatment facility and whose function is to administer treatment or perform diagnostic procedures confined to that laboratory, office clinic, or outpatient facility under the direction of a licensed physician.
- (8) Any respiratory therapy student who performs limited respiratory therapy procedures as an employee of any health care provider organization while enrolled in a respiratory therapy educational program accredited by the CAAHEP in collaboration with the CoARC or their successor organizations. The employee will be designated by title as a student or trainee and work under direct supervision.
- (9) Any individual employed by a durable medical equipment or home medical equipment

company who delivers, sets up, or maintains respiratory equipment but not including assessment or evaluation of the patient.

(10) Any individual employed as a polysomnographic technologist working in a sleep center or diagnostic sleep clinic.

(11) Any licensed respiratory therapist performing advances in the art and techniques of respiratory therapy learned through special training acceptable to the board.

Author: The Alabama State Board of Respiratory Therapy

Statutory Authority: Code of Alabama (1975) § 34-27B-1 thru § 34-27B-17.

Effective Date: October 11, 2007

Amended: April 20, 2011 Effective: June 3, 2011