



June 4, 2014

Senator Jane Nelson  
Chair, The Texas Sunset Advisory Commission  
P.O. Box 13066  
Austin, Texas 78711

Dear Senator Nelson,

The NBRC is in receipt of the Sunset Advisory Commission - Department of State Health Services Staff Report which recommends to discontinue the regulation of respiratory care practitioners in Texas. We are shocked that the Report recommends deregulation of the life sustaining profession of respiratory therapy, and it is the opinion of the NBRC that deregulation of respiratory care practitioners would place the citizenry of the State of Texas at severe risks for great harm.

We assume that part of your decision to deregulate this group is based on the perception that the National Board for Respiratory Care already provides the functions served by state licensure. As a voluntary credentialing agency, the NBRC lacks the legal authority of state licensure boards, and while we work in partnership with state licensure agencies, the NBRC cannot check criminal and abuse backgrounds of individuals applying for its voluntary credentials. We have no legal power to regulate and monitor the ongoing competence of respiratory care practitioners in any patient care setting. Our powers are limited to taking action only when examination policies or trademark violations have occurred, or following final actions taken by state licensure boards that are subsequently referred to our Judicial and Ethics Committee. Further, the NBRC has no investigative or subpoena powers to investigate practice related offenses committed by respiratory care practitioners.

The Board's position on the difference between state licensure and voluntary credentialing is outlined in the attached position statement. The NBRC encourages the Sunset Advisory Commission to reconsider its position concerning the deregulation of respiratory care practitioners. Removal of the licensure process for respiratory care practitioners in Texas would most certainly endanger the health, safety and welfare of the citizens of your state. Deregulation of these health professionals would certainly be a step backwards for any jurisdiction that has properly installed mechanisms to license and regulate respiratory care practitioners.

Respectfully submitted,

Carl F. Haas, MLS, RRT, RRT-ACCS, CPFT, FAARC  
President

Gary A. Smith, RRT (HON), FAARC  
Executive Director and CEO

Enclosure



## State Licensure and NBRC Voluntary Credentialing

This information is being provided by the National Board for Respiratory Care (NBRC) to clarify the important differences between voluntary national credentialing and state licensure of respiratory therapists.

Voluntary credentialing of respiratory therapists by the NBRC began in 1960 with the establishment of the Registered Respiratory Therapist credential. From the beginning, this has been a voluntary process by which individuals have chosen to seek one or more credentials by demonstrating success on the examination validated to be related to the job being performed. This process is designed to assure that **at the time a person completes the examination** they have demonstrated the ability to answer enough items correctly to achieve a passing score established by the NBRC. **Successful completion of an NBRC voluntary credentialing examination does not insure continued competence.**

Starting in July 2002, NBRC credentials have been awarded with five-year expirations. Renewal of these credentials requires that the individual complete a process to document their efforts to assure continued competence. Approximately 30% of persons who earned NBRC credentials since 2002 have not chosen to renew those credentials. All persons who earned a credential before July 2002 received a credential with no expiration date; these persons may decide to participate in the NBRC's Continuing Competency Program by providing documentation of continued competence efforts, but they are not required to do so. For those who have not chosen or are not required to renew their credentials, the NBRC is not able to provide **ANY** information about their continuing ability to practice safely or their efforts to maintain continued competence.

The NBRC voluntary credentialing process is very different in scope and effect from state licensure of individuals. Licensure is conferred by a state for the purpose of protecting the health, safety, and welfare of its citizens. As of April 2012 forty-nine states and the District of Columbia have determined there was a need to license respiratory therapists to protect the health, safety, and welfare of their citizens. At the time these determinations were made, this same national, voluntary credentialing process existed exactly as it does today. It was determined at that time that the voluntary credentialing process did not adequately protect the health and safety of state residents. **Nothing about the voluntary credentialing process has changed.**

Respiratory therapy licensure was enacted by the majority of jurisdictions because of the critical nature of the duties performed by respiratory therapists. These educated clinical health practitioners assist in resuscitations, manage mechanical ventilators to support respiratory failure, implement respiratory care protocols, and perform diagnostic procedures. Many of their duties are performed in critical care units, and they are routinely involved in life or death situations. With a focus on patient safety, licensure is clearly required to continually assure competence of respiratory therapists. A voluntary credentialing system alone, notwithstanding the contribution of outstanding voluntary competency testing and credentialing examination programs, is not sufficient to continually assure patient safety when respiratory services are required.

The voluntary credentialing process is neither designed nor intended to provide all the functions inherent in state licensure. The NBRC has processes, abilities, resources and mission to provide the initial examination and credentialing and renewal of credentials. Functions of assuring the moral, ethical, competence and safety of respiratory therapists caring for patients is the responsibility of state licensure processes. Candidates for NBRC voluntary examinations are not screened for criminal or other background issues that may affect their ability to provide safe and competent respiratory therapy to patients when they apply and are awarded NBRC credentials.

Further, the NBRC does not have the authority or ability to carry out the functions of receiving and investigating complaints about the practice of a respiratory therapist. The NBRC is not able to suspend or revoke the ability of an individual to practice the profession of respiratory therapy for any of the infractions that are within the jurisdiction of state regulatory agencies. The NBRC voluntary credentialing process does not possess the ability to assure the ongoing health, safety, and welfare of the citizens of any state. The NBRC has no investigative or subpoena authority. ***The NBRC does not have the authority or ability to prevent a person from providing respiratory therapy services for any reason.*** The only power the NBRC has regarding individuals who hold its voluntary credentials is to censure, suspend or revoke the NBRC credentials. ***Again, the NBRC has no legal authority to prevent any individual from providing respiratory therapy to patients in any care setting.***

The NBRC does have a Judicial and Ethics process that can suspend or revoke credentials of individuals, but only in cases of violation of NBRC rules and policies, or after final actions have been taken by state licensing boards and reported through the NBRC's national disciplinary database. The vast majority of cases considered by the NBRC's Judicial and Ethics Committee involve secondary consideration of practice related actions, denial of the issuance of a license, suspension of a license to practice, or surrender of a license referred by a state licensure agency.

Through the years, voluntary credentialing and state licensure have evolved to be complementary processes that include the initial awarding of credentials based on job related testing (NBRC) and the initial and continuing process of assuring that respiratory therapists are able to safely and effectively deliver care to persons with cardiopulmonary abnormalities by state licensure agencies. The NBRC voluntary credentialing process was never intended to supplant the far more powerful authority wielded by state licensure boards. ***By its very nature, NBRC voluntary credentialing cannot replace the protective powers of state licensure.***