

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 819*
PROPOSED COMMITTEE SUBSTITUTE H819-PCS50717-RFf-54

Short Title: Polysomnography Practice Act.

(Public)

Sponsors:

Referred to:

March 30, 2009

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE POLYSOMNOGRAPHY PRACTICE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 39A.

"Polysomnography Practice Act.

"§ 90-677.1. Definitions.

The following definitions apply in this Article:

- (1) Board. – The Board of Registered Polysomnographic Technologists (BRPT), a member of the National Organization of Certification Associations and accredited by the National Commission for Certifying Agencies (NCCA), the accreditation body of the National Organization for Competency Assurance (NOCA).
- (2) Direct supervision. – An act whereby a registered polysomnographic technologist who is providing supervision is present in the area where the polysomnographic procedure is being performed and immediately available to furnish assistance and direction throughout the performance of the procedure.
- (3) General supervision. – The authority and responsibility to direct the performance of activities as established by policies and procedures for safe and appropriate completion of polysomnography services whereby the physical presence of a licensed physician is not required during the performance of the polysomnographic procedure, but the licensed physician must be available for assistance, if needed.
- (4) Licensed physician. – A physician licensed to practice medicine under Article 1 of Chapter 90 of the General Statutes.
- (5) Polysomnography. – The allied health specialty involving the process of attended and unattended monitoring, analysis, and recording of physiological data during sleep and wakefulness to assist in the assessment of sleep and wake disorders and other sleep disorders, syndromes, and dysfunctions that are sleep-related, manifest during sleep, or disrupt normal sleep and wake cycles and activities, as performed by polysomnographic technologists or



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1 polysomnographic students who are permitted to perform polysomnography
2 services under this Article.

3 (6) Registered polysomnographic technologist. – A person who is credentialed
4 by the Board and entitled to use 'Registered Polysomnographic Technologist'
5 (RPSGT) as the person's credential.

6 (7) Secretary. – The Secretary of State of North Carolina.

7 (8) Student. – A person who is enrolled in a polysomnography educational
8 program approved by the Board as an acceptable pathway to meet eligibility
9 requirements for the certification.

10 **"§ 90-677.2. Practice of polysomnography.**

11 (a) The 'practice of polysomnography' means the performance of any of the following
12 tasks under the general supervision of a licensed physician:

13 (1) Monitoring and recording physiological data during the evaluation of
14 sleep-related disorders, including sleep-related respiratory disturbances, by
15 applying the following techniques, equipment, or procedures:

16 a. Positive airway pressure (PAP) devices, such as continuous positive
17 airway pressure (CPAP), and bi-level and other approved devices,
18 providing forms of pressure support used to treat sleep disordered
19 breathing on patients using a mask or oral appliance; provided, the
20 mask or oral appliance does not attach to an artificial airway or
21 extend into the trachea.

22 b. Supplemental low flow oxygen therapy, up to eight liters per minute,
23 utilizing nasal cannula or administered with continuous or bi-level
24 positive airway pressure during a polysomnogram.

25 c. Capnography during a polysomnogram.

26 d. Cardiopulmonary resuscitation.

27 e. Pulse oximetry.

28 f. Gastroesophageal pH monitoring.

29 g. Esophageal pressure monitoring.

30 h. Sleep staging, including surface electroencephalography, surface
31 electrooculography, and surface submental or masseter
32 electromyography.

33 i. Surface electromyography.

34 j. Electrocardiography.

35 k. Respiratory effort monitoring, including thoracic and abdominal
36 movement.

37 l. Plethysmography blood flow monitoring.

38 m. Snore monitoring.

39 n. Audio and video monitoring.

40 o. Body movement.

41 p. Nocturnal penile tumescence monitoring.

42 q. Nasal and oral airflow monitoring.

43 r. Body temperature monitoring.

44 s. Actigraphy.

45 (2) Observing and monitoring physical signs and symptoms, general behavior,
46 and general physical response to polysomnographic evaluation and
47 determining whether initiation, modification, or discontinuation of a
48 treatment regimen is warranted based on protocol and physician's order.

49 (3) Analyzing and scoring data collected during the monitoring described in
50 subdivisions (1) and (2) of this subsection for the purpose of assisting a

1 licensed physician in the diagnosis and treatment of sleep and wake
2 disorders.

3 (4) Implementing a written or verbal order from a licensed physician that
4 requires the practice of polysomnography.

5 (5) Educating a patient regarding polysomnography and sleep disorders.

6 (b) The practice of polysomnography shall take place in a hospital, a stand-alone sleep
7 laboratory or sleep center, or a patient's home. However, the scoring of data and education of
8 patients may take place in settings other than a sleep laboratory or sleep center.

9 **"§ 90-677.3. Unlawful acts; injunctive relief.**

10 (a) On or after January 1, 2012, it shall be unlawful for a person to practice
11 polysomnography, imply, orally or in writing, that the person is credentialed to practice
12 polysomnography, or use the title 'Registered Polysomnographic Technologist' or the initials
13 'RPSGT' unless that person is currently listed with the Secretary as provided in this Article.

14 (b) Complaints and investigations of violations of this Article shall be directed to and
15 conducted by the Board.

16 (c) A violation of subsection (a) of this section constitutes an unlawful act and a court
17 may impose a penalty or issue an injunction or restraining order to prevent further violations
18 under this Article.

19 **"§ 90-677.4. Exemptions.**

20 The provisions of this Article shall not apply to:

21 (1) Any person registered, certified, credentialed, or licensed to engage in
22 another profession or occupation or any person working under the
23 supervision of a person registered, certified, credentialed, or licensed to
24 engage in another profession or occupation in this State if the person is
25 performing work incidental to or within the scope of practice of that
26 profession or occupation and the person does not represent himself or herself
27 as a registered polysomnographic technologist.

28 (2) An individual employed by the United States government when performing
29 duties associated with that employment.

30 (3) Research investigation that monitors physiological parameters during sleep
31 or wakefulness provided that the research investigation has been approved
32 and deemed acceptable by an institutional review board, follows
33 conventional safety measures required for the procedures, and the
34 information is not obtained or used for the practice of clinical medicine.

35 (4) A physician licensed to practice medicine under Article 1 of Chapter 90 of
36 the General Statutes or a physician's assistant or nurse practitioner licensed
37 to perform medical acts, tasks, and functions under Article 1 of Chapter 90
38 of the General Statutes.

39 (5) A student actively enrolled in a polysomnography education program if:

40 a. Polysomnographic services and post training experience are
41 performed by the student as an integral part of the student's course of
42 study;

43 b. The polysomnographic services are performed under the direct
44 supervision of a registered polysomnographic technologist; and

45 c. The student adheres to post training examination guidelines
46 established by the Board.

47 **"§ 90-677.5. Listing by Secretary.**

48 (a) Before engaging in the practice of polysomnography pursuant to this Article, each
49 registered polysomnographic technologist shall remit to the Secretary a fee of fifty dollars
50 (\$50.00) and file with the Secretary the following:

51 (1) The registered polysomnographic technologist's full legal name.

1 (2) The registered polysomnographic technologist's complete address and
2 telephone number.

3 (3) The date the registered polysomnographic technologist was credentialed by
4 the Board.

5 The Secretary shall not list a registered polysomnographic technologist until the registered
6 polysomnographic technologist has presented to the Secretary a copy of the registered
7 polysomnographic technologist's Board-credentialing document or has arranged for the Board
8 to electronically notify the Secretary of the registered polysomnographic technologist's
9 credentials and the Secretary has received notice from the Board. The Secretary shall develop a
10 form for applicants seeking to file as registered polysomnographic technologists and may
11 require that filing be made by electronic filing and electronic fee payment. A filing with the
12 Secretary is void if a check or other payment of a required fee is returned to the Secretary by
13 the issuing institution for insufficient funds or other similar reason.

14 (b) The Secretary shall maintain a listing of all current registered polysomnographic
15 technologists. All fees paid to the Secretary shall be used to pay the costs incurred in
16 administering and enforcing this Article. The Board shall promptly notify the Secretary, by
17 mail or electronic means, when a person's credential is revoked or no longer in effect. If the
18 Secretary is notified that a registrant's credential is revoked or no longer in effect, the Secretary
19 shall promptly amend the listing in accordance with the Board's notice.

20 (c) A listing automatically expires on the 30th day of September of each year. A listing
21 shall be renewed annually upon the filing of a new listing form, credential verification, and
22 filing fee."

23 **SECTION 2.** No later than six months from the effective date of this act, the North
24 Carolina Medical Board shall identify the standards of physician supervision of persons
25 registered to practice as registered polysomnographic technologists under Article 39A of
26 Chapter 90 of the General Statutes, as enacted in Section 1 of this act. The North Carolina
27 Medical Board shall communicate the standards of supervision to all physicians licensed to
28 practice medicine under Article 1 of Chapter 90 of the General Statutes.

29 **SECTION 3.** This act becomes effective October 1, 2009.