

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 819*
Committee Substitute Favorable 5/28/09
PROPOSED COMMITTEE SUBSTITUTE H819-PCS80456-RFf-59

Short Title: Polysomnography Practice Act.

(Public)

Sponsors:

Referred to:

March 30, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE POLYSOMNOGRAPHY PRACTICE ACT.

3 The General Assembly of North Carolina enacts:

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

6 "Article 39A.

7 "Polysomnography Practice Act.

8 **"§ 90-677.1. Definitions.**

9 The following definitions apply in this Article:

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



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- 1 (6) Registered polysomnographic technologist. – A person who is credentialed
2 by the Board and entitled to use 'Registered Polysomnographic Technologist'
3 (RPSGT) as the person's credential.
4 (7) Secretary. – The Secretary of State of North Carolina.
5 (8) Student. – A person who is enrolled in a polysomnography educational
6 program approved by the Board as an acceptable pathway to meet eligibility
7 requirements for credentialing.

8 **"§ 90-677.2. Practice of polysomnography.**

9 (a) The 'practice of polysomnography' means the performance of any of the following
10 tasks:

- 11 (1) Monitoring and recording physiological data during the evaluation of
12 sleep-related disorders, including sleep-related respiratory disturbances, by
13 applying the following techniques, equipment, or procedures:
14 a. Positive airway pressure (PAP) devices, such as continuous positive
15 airway pressure (CPAP), and bilevel and other approved devices,
16 providing forms of pressure support used to treat sleep disordered
17 breathing on patients using a mask or oral appliance; provided, the
18 mask or oral appliance does not attach to an artificial airway or
19 extend into the trachea.
20 b. Supplemental low flow oxygen therapy, up to eight liters per minute,
21 utilizing nasal cannula or administered with continuous or bilevel
22 positive airway pressure during a polysomnogram.
23 c. Capnography during a polysomnogram.
24 d. Cardiopulmonary resuscitation.
25 e. Pulse oximetry.
26 f. Gastroesophageal pH monitoring.
27 g. Esophageal pressure monitoring.
28 h. Sleep staging, including surface electroencephalography, surface
29 electrooculagraphy, and surface submental or masseter
30 electromyography.
31 i. Surface electromyography.
32 j. Electrocardiography.
33 k. Respiratory effort monitoring, including thoracic and abdominal
34 movement.
35 l. Plethysmography blood flow monitoring.
36 m. Snore monitoring.
37 n. Audio and video monitoring.
38 o. Body movement.
39 p. Nocturnal penile tumescence monitoring.
40 q. Nasal and oral airflow monitoring.
41 r. Body temperature monitoring.
42 s. Actigraphy.
43 (2) Observing and monitoring physical signs and symptoms, general behavior,
44 and general physical response to polysomnographic evaluation and
45 determining whether initiation, modification, or discontinuation of a
46 treatment regimen is warranted based on protocol and physician's order.
47 (3) Analyzing and scoring data collected during the monitoring described in
48 subdivisions (1) and (2) of this subsection for the purpose of assisting a
49 licensed physician in the diagnosis and treatment of sleep and wake
50 disorders.

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

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

4 (b) The practice of polysomnography shall be performed under the general supervision
5 of a licensed physician.

6 (c) 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 hospital, stand-alone sleep laboratory or sleep
9 center, or patient's home.

10 **"§ 90-677.3. Unlawful acts; injunctive relief.**

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

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

17 (c) A violation of subsection (a) of this section is a Class 1 misdemeanor. The court
18 may issue injunctions or restraining orders to prevent further violations 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 this Article. The Board shall promptly notify the Secretary, by mail or electronic
17 means, when a person's credential is revoked or no longer in effect. If the Secretary is notified
18 that a registrant's credential is revoked or no longer in effect, the Secretary shall promptly
19 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.