

CALIFORNIA LEGISLATURE
2009–10 REGULAR SESSION

SENATE DAILY JOURNAL

ONE HUNDRED THIRTY-FIRST LEGISLATIVE DAY

IN SENATE

Senate Chamber, Sacramento
Friday, September 11, 2009

The Senate met at 10:45 a.m.
Hon. Gloria Romero, of the 24th District, presiding.
Secretary Greg Schmidt at the Desk.
Assistant Secretary Zach Twilla reading.

QUORUM CALL OF THE SENATE

Without objection, a quorum call was placed upon the Senate.
The President directed the Sergeant at Arms to close the doors and to bring in the absent Members.

PROCEEDINGS UNDER QUORUM CALL OF THE SENATE ROLL CALL

The roll was called and the following Senators answered to their names:
Aanestad, Alquist, Ashburn, Benoit, Calderon, Cedillo, Cogdill, Corbett, Correa, Cox, Denham, DeSaulnier, Ducheny, Dutton, Florez, Hancock, Harman, Hollingsworth, Huff, Kehoe, Leno, Liu, Lowenthal, Maldonado, Negrete McLeod, Oropeza, Padilla, Pavley, Price, Romero, Runner, Simitian, Steinberg, Strickland, Walters, Wiggins, Wolk, Wright, Wyland, and Yee—40.

Quorum present.

REQUEST TO BE ADDED TO ROLL CALL

September 11, 2009

Mr. Secretary: Pursuant to the provisions of Senate Rule 44, I request to be recorded as voting on the following measures taken up on this day:

- | | | |
|------------|-------------|------------|
| AB 172—Aye | AB 1130—Aye | SB 324—Aye |
| SB 606—Aye | SB 630—Aye | SB 545—Aye |
| SB 985—Aye | SB 519—Aye | SB 291—Aye |
| SB 400—Aye | AB 1318—Aye | AB 64—Aye |

DARRELL STEINBERG, President pro Tempore

September 11, 2009

Mr. Secretary: Pursuant to the provisions of Senate Rule 44, I request to be recorded as voting on the following measures taken up on this day:

- | | |
|------------|-----------|
| SCR 57—Aye | SB 545—No |
|------------|-----------|

DENNIS HOLLINGSWORTH, Minority Floor Leader

UNANIMOUS CONSENT TO PRINT IN JOURNAL

Without objection, the following letter was printed in the Journal.

September 11, 2009

The Honorable Gregory P. Schmidt
Secretary of the Senate

Dear Secretary Schmidt,

The purpose of this letter is to express the Legislature’s intent in enacting SB 132, which establishes qualifications for persons to practice polysomnography (sleep studies) in California.

Polysomnography involves monitoring and recording physiological data, generally while an individual is asleep, to assess and help treat sleep disorders. The practice of polysomnography is a well-established medical discipline that has been growing in popularity, and is practiced by licensed physicians who specialize in sleep medicine, with the aid of trained technicians. These technicians have predominately been unlicensed personnel and licensed respiratory care practitioners (RCPs). This bill establishes educational requirements, background checks, competency testing and other consumer protections, for unlicensed personnel and provides an exemption for other allied-health licensed professionals.

Specifically, subdivision (f) of section 3575 provides, “This section shall not apply to California licensed allied health professionals, including, but not limited to, respiratory care practitioners, working within the scope of practice of their license.” Recently, there has been concern that this exemption may be narrowly interpreted to exclude RCPs from certain aspects of the practice of polysomnography. While the practice of respiratory care is intertwined in polysomnography, there are some tasks that may be challenged as being outside the RCP scope of practice

(Business and Professions Code, Section 3702 and 3702.7). It is the intent of the Legislature to recognize these tasks as “overlapping functions” as provided for in Business and Professions Code, Section 3701, permitting the sharing of these functions.

Licensed RCPs undergo criminal background checks, and are educated and competency tested in certain aspects of polysomnography. It is also recognized that RCPs make up a portion of the current polysomnography workforce and have long been involved in its evolution. Moreover, RCPs have extensive education and training to fully respond to emergencies.

SB 132 was designed to provide consumer safeguards for those undergoing sleep studies by unlicensed personnel. SB 132 is not intended to provide an exclusive scope of practice which would unnecessarily restrict other licensed professions from providing competent, effective and accessible care. More specifically, SB 132 is not intended to require California licensed RCPs to meet any additional criteria or qualifications in order to legally and fully practice polysomnography in California.

Sincerely,

JEFF DENHAM
Senator, 12th District

MOTION TO PRINT IN JOURNAL

Senator Strickland moved that the following letter be printed in the Journal.

Motion carried.

September 11, 2009

Mr. Greg Schmidt
Senate Rules Committee

RE: SB 744 (Strickland)

Dear Mr. Schmidt:

SB 744 (Strickland) adjusts fees charged to laboratories by the California Department of Public Health based on testing volume. This fee adjustment is intended to provide additional resources for the Department to carry out statutorily mandated duties and provide regulatory oversight.

SB 744 is not intended to affect current legislative intent that the State continue to work toward federal CLIA exemption status from the federal Center for Medicare and Medicaid Services. Nor is the measure intended to affect exemptions for physician owned labs (POLs) afforded by current law.

Sincerely,

TONY STRICKLAND
Senator, 19th District