

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Polysomnographic Technologists Act.

Existing law, the Respiratory Care Practice Act, provides for the licensure and regulation of respiratory professionals by the Respiratory Care Board of California. Existing law defines the practice of respiratory therapy, and prohibits its practice without a license issued by the board, subject to certain exceptions. Under existing law, all licensing fees collected under the Respiratory Care Practice Act are deposited into the Respiratory Care Fund.

This bill would enact the Polysomnographic Technologist Act, which would provide for the licensing and regulation of polysomnographic technologists and applicant polysomnographic technologists by the board. The bill would prohibit the unlicensed performance of polysomnography or polysomnography-related respiratory care services, as defined, except as specified. The bill would provide for certain licensing and regulatory fees to be deposited into the fund.



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Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local
program: no.

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An act to add Chapter 8.4 (commencing with Section 3800) to Division 2 of, and to repeal Section 3828 of, the Business and Professions Code, relating to polysomnographic technologists.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 8.4 (commencing with Section 3800) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 8.4. POLYSOMNOGRAPHIC TECHNOLOGISTS ACT

Article 1. General Provisions

3800. This chapter shall be known and may be cited as the Polysomnographic Technologist Act.

3802. "Polysomnography" means the process of analysis, attended monitoring, and recording of physiologic data during sleep and wakefulness in order to assist in the assessment and diagnosis of sleep or wake disorders and other disorders, syndromes, and dysfunctions that are sleep related, manifest during sleep, or disrupt normal sleeping and waking cycles and activities.

3804. "Polysomnography related respiratory care services" means the limited practice of respiratory care in the provision of polysomnography services, including all of the following:

- (a) The diagnostic and therapeutic use of oxygen.
- (b) Noninvasive ventilatory assistance of spontaneously breathing patients and cardiopulmonary resuscitation.
- (c) Establishment of baseline oxyhemoglobin saturation.
- (d) Routine fitting of positive airway pressure mask or cannula.

- (e) Maintenance of nasal and oral airways that do not extend into the trachea.
- (f) Continuous observation, analysis, and recording of carbon dioxide concentrations in respiratory gases, and other respiratory events.
- (g) Validation of respiratory-related data integrity.
- (h) Calibration of respiratory care devices.
- (i) Implementing appropriate interventions, including actions necessary for patient safety.
- (j) Applying the knowledge and skills necessary to recognize and provide age specific respiratory care in the treatment, assessment, and education of neonatal, pediatric, adolescent, adult, and geriatric patients.

3806. For purposes of this chapter, the following terms have the following meanings:

- (a) "Board" means the Respiratory Care Board of California.
- (b) "Medical director" means a physician and surgeon who is a member of a health care facility's active medical staff, who specializes in sleep medicine, who is knowledgeable in respiratory care, and who is licensed to practice medicine pursuant to Chapter 5 (commencing with Section 2000).
- (c) "Polysomnographic technologist" means a person licensed pursuant to this chapter.
- (d) "Respiratory care practitioner" means a person licensed pursuant to Chapter 8.3 (commencing with Section 3700).

3808. Notwithstanding Chapter 8.3 (commencing with Section 3700), a person holding a polysomnographic technologist license issued pursuant to this chapter may perform polysomnography and polysomnography-related respiratory care services.

3810. (a) The practice of polysomnography and polysomnography-related respiratory care services may be performed in any sleep disorder program that includes a sleep disorder center, laboratory, facility, home, or any other area where polysomnography is conducted and that is under the supervision of a medical director responsible for patient care provided at that location.

(b) The practice of polysomnography and polysomnography-related respiratory care services shall be performed under the supervision of a medical director in accordance with a prescription of a physician and surgeon or pursuant to polysomnography protocols.

(c) "Polysomnography protocols," as used in this chapter, mean policies and protocols developed by a California licensed health facility through collaboration, when appropriate, with administrators and physicians and surgeons, registered nurses, and respiratory care practitioners licensed in California, and in accordance with federal and state laws and regulations.

Article 2. Licensure

3820. Prior to licensure, an applicant for licensure under this chapter shall meet all of the following requirements:

(a) Fulfill one of the following criteria:

- (1) He or she possess a current license to practice respiratory care in California.
 - (2) He or she completed an accredited respiratory care program as prescribed by the board and has an associated degree.
 - (3) He or she has completed an accredited electroneurodiagnostics program as prescribed by the board and has an associated degree.
 - (4) He or she has completed a polysomnography educational program prescribed by the board, and has an associated degree.
 - (5) He or she has completed 18 months or 3,000 hours of full-time, paid work experience as an applicant polysomnographic technologist, including 1,000 hours in polysomnography-related respiratory care services as prescribed by the board and satisfactorily performed as verified by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000).
- (b) Complete any other educational courses, clinical practice, or work experience identified by the board through regulation.
 - (c) Provide documentation to the satisfaction of the board of meeting the above requirements.

3822. Except as otherwise provided in this chapter, no applicant shall receive a license under this chapter without first successfully passing an examination approved by and prescribed by the board.

3824. The board may require successful completion of one or more professional courses offered by the board, the American Association for Respiratory Care, the California Society for Respiratory Care, or the National Board for Respiratory Care in any of the following circumstances:

- (a) As part of mandatory continuing education.
- (b) Prior to initial licensure.
- (c) Prior to consideration of a reinstatement petition.

3826. (a) Except as otherwise provided in this section, a person who has filed an application and who meets all the requirements for licensure other than those requirements contained in Sections 3820 and 3822 may receive a work permit, between dates specified by the board, to perform as an applicant polysomnographic technologist under the direct supervision of a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000), a respiratory care practitioner licensed pursuant to Chapter 8.3 (commencing with Section 3700), or a polysomnographic technologist licensed pursuant to this chapter, provided that all of the following apply:

- (1) He or she has not failed an examination required for licensure pursuant to Section 3822.
- (2) He or she is employed by a sleep disorder program as described in Section 3810.
- (3) The medical director of the sleep disorder program provides acknowledgment of the director's responsibility to provide direct supervision, as set forth in subdivision (e), and to provide routine reports as required by the board.
- (4) The applicant provides any and all information requested by the board in relation to paragraphs (1), (2), and (3).
- (5) The applicant only identifies himself or herself in this capacity as an applicant polysomnographic technologist.

(b) The board may rescind a work permit issued pursuant to this section if new information is received, or if information requested by the board is not received, that affects the status of the application for licensure or the board's ability to verify requirements.

(c) No applicant for a polysomnographic technologist license shall receive a work permit as an applicant polysomnographic technologist if cause exists to deny his or her application for licensure.

(d) An applicant polysomnographic technologist may, while under the direct supervision described in subdivision (a), perform those diagnostic and therapeutic procedures defined as "polysomnography" and "polysomnography respiratory care related services," except that under no circumstances may an applicant polysomnographic technologist make any type of independent assessment.

(e) "Under the direct supervision" means that a person is assigned to a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000), a respiratory care practitioner licensed pursuant to Chapter 8.3 (commencing with Section 3700), or a polysomnographic technologist licensed pursuant to this chapter, who is on duty and immediately available, within five minutes, in the assigned patient care area.

(f) A work permit issued pursuant to this section may be issued for an initial term period not to exceed six months, and may be extended in one year increments not to exceed three and one-half years from the start date of the initial issuance of the work permit. An extension shall only be issued upon the request of the applicant and after all of the following have been provided to the board's satisfaction:

- (1) Verification of current certification in cardiopulmonary resuscitation.
 - (2) Verification of current employer and medical director and their contact information.
 - (3) A recent acknowledgment form completed by the applicant and the medical director responsible for the direct supervision and verification of paid work experience of the applicant.
 - (4) A written statement signed under oath as to whether the applicant has been arrested or convicted for any crime in the past 18 months, and details of the incident as requested by the board.
- (g) An applicant polysomnographic technologist shall report to the board within 10 days of a change in employer or medical director taking responsibility for direct supervision and verification of his or her paid work experience.
3828. (a) A person who applies for a license pursuant to this chapter on or before January 1, 2009, may use paid work experience earned in the two years preceding January 1, 2009, to meet, either partially or fully, the work experience requirement in paragraph (5) of subdivision (a) of Section 3820 without having held a work permit as an applicant polysomnographic technologist.
- (b) Paid work experience described in this section must be satisfactorily performed, as verified by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) and supported by official personnel records, including duty statements, performance reviews or appraisals, salary and shift information, and any other documentation as required by the board.

(c) This section shall become inoperative and be repealed on January 1, 2010, unless a later enacted statute that is enacted before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

3830. A person renewing his or her license shall submit proof satisfactory to the board that, during the preceding two years, he or she completed the required number of continuing education hours established by regulation of the board. At the time this chapter is enacted, the required continuing education shall be 15 hours every two years. The board may increase the number of hours by regulation, not to exceed 30 hours every two years. Successful completion of an examination approved by the board may be submitted by a licensee for a designated portion of continuing education credit. The board shall determine the hours of credit to be granted for the passage of particular examinations.

3832. At the time of application for renewal of a polysomnographic technologist license, the licensee shall notify the board of all of the following:

- (a) Whether he or she has been arrested or convicted of any crime subsequent to the licensee's previous renewal, and the details of any arrest or conviction as requested by the board.
- (b) The name and address of the licensee's current employer or employers.
- (c) Whether he or she has maintained a current nationally recognized certificate for cardiopulmonary resuscitation, and the current expiration date of the certification.

3840. (a) No person may practice polysomnography and polysomnography-related respiratory care services, or represent himself or herself to be a polysomnographic technologist in this state, without a valid license granted under this chapter or except as otherwise provided in this chapter.

(b) For purposes of this section, engaging in the practice of polysomnography and polysomnography-related respiratory care services includes, but is not limited to, representations by a person, whether through verbal claim, sign, advertisement, letterhead, business card, or other representation, that he or she is able to perform any polysomnography and polysomnography-related respiratory care services or performance of polysomnography or any polysomnography-related respiratory care services.

(c) A person who is unlicensed, whose polysomnographic technologist license has been revoked or suspended, or whose license is not valid shall not engage in the practice of polysomnography or polysomnography-related respiratory care services during the period of suspension or revocation, even though the person may continue to hold a certificate or registration issued by a private certifying entity.

(d) Except as otherwise provided in this chapter, a person shall not represent himself or herself to be a polysomnographic technologist, a polysomnographic equipment technician, or a polysomnographic technician or use the abbreviation or letters "PSGT" or use any modifications or derivatives of those titles, abbreviations, or letters without a current and valid license issued under this chapter.

(e) A polysomnographic technologist applicant shall not begin practice as an applicant polysomnographic technologist until he or she meets the applicable requirements of this chapter and obtains a valid work permit.

(f) A person or corporation shall not knowingly employ a person who holds himself or herself out to be a polysomnographic technologist without a valid license granted under this chapter, except as otherwise provided in this chapter.

3842. This chapter does not prohibit any of the following activities:

(a) The performance of polysomnography and polysomnography-related respiratory care services by a respiratory care practitioner licensed pursuant to Chapter 8.3 (commencing with Section 3700).

(b) The performance of polysomnography and polysomnography-related respiratory care services that are an integral part of the program of study by students enrolled in board-approved polysomnography educational or training programs.

(c) Self-care by a patient or the gratuitous care by a friend or member of the family of the patient who does not represent or hold himself or herself to be a polysomnographic technologist licensed under the provisions of this chapter.

(d) A polysomnographic technologist performing advances in the art and techniques of polysomnography and polysomnography-related respiratory care services learned through formal or specialized training.

(e) The performance by a person employed by a home medical device retail facility or by a home health agency licensed by the State Department of Health Care Services of specific, limited, and basic polysomnography respiratory care related services, as may be identified as "specific, limited, and basic respiratory care or

respiratory care related services,” authorized by the board pursuant to subdivision (h) of Section 3765.

Article 4. Fiscal Administration

3850. The fees applicable to licenses or work permits for the practice of polysomnography and polysomnography-related respiratory care services shall be as follows:

(a) The application fee shall be two hundred fifty dollars (\$250). The board may increase this fee, by regulation, to an amount not to exceed five hundred dollars (\$500).

(b) The work permit fee shall be zero dollars (\$0). The board may increase this fee, by regulation, to an amount not to exceed two hundred dollars (\$200).

(c) An extended work permit fee shall be two hundred dollars (\$200). The board may increase this fee, by regulation, to an amount not to exceed four hundred dollars (\$400).

(d) The licensing fee shall be two hundred dollars (\$200) and may be prorated at the board’s discretion. The board may increase this fee, by regulation, to an amount not to exceed four hundred dollars (\$400).

(e) The fee for any examination or reexamination required by the board shall be the actual cost to the board for developing, purchasing, grading, and administering the examination or reexamination.

(f) The license renewal fee shall be four hundred dollars (\$400). The board may increase this fee, by regulation, to an amount not to exceed six hundred dollars (\$600).

(g) Delinquency fees shall be in the following amounts:

(1) If the license is renewed not more than two years from the date of its expiration, the delinquency fee shall be 50 percent of the renewal fee in effect at the time of renewal.

(2) If the license is renewed after two years but not more than three years from the date of expiration of the license, the delinquency fee shall be 100 percent of the renewal fee in effect at the time of renewal.

(h) The duplicate license fee shall be twenty-five dollars (\$25). The board may increase this fee, by regulation, to an amount not to exceed one hundred dollars (\$100).

(i) The endorsement fee shall be seventy-five dollars (\$75). The board may increase this fee, by regulation, to an amount not to exceed one hundred fifty dollars (\$150).

(j) Costs incurred by the board in order to obtain and review documents or information related to the past and present employment of, criminal history of, rehabilitation of, disciplinary actions taken by another state agency against, or acts of negligence in the practice of polysomnography and polysomnography-related respiratory care services by, an applicant, petitioner, or licensee, shall be paid by the applicant, petitioner, or licensee before a license will be issued or reinstated or before a subsequent renewal is processed.

(k) Fees paid in any form other than check, money order, or cashier's check shall be subject to an additional processing charge equal to the board's actual processing costs.

(l) Fees incurred by the board to process return mail shall be paid by the applicant or licensee for whom the charges were incurred.

(m) Notwithstanding any other provision of this chapter, the board, in its discretion, may reduce the amount of any fee otherwise prescribed by this section.

3852. All collections from persons licensed or seeking to be licensed under this chapter shall be paid by the board into the Respiratory Care Fund.

