

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE DRH50054-LUfqq-9\* (1/23)

Short Title: Polysomnographic Technologists Licensure. (Public)

Sponsors: Representative Tolson.

Referred to:

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE LICENSURE OF POLYSOMNOGRAPHIC TECHNOLOGISTS, AUTHORIZING THE NORTH CAROLINA RESPIRATORY CARE BOARD TO INCREASE ITS MEMBERSHIP FROM TEN TO TWELVE AND ALLOWING THE DEPARTMENT OF JUSTICE TO CONDUCT CRIMINAL HISTORY RECORD CHECKS FROM STATE AND NATIONAL REPOSITORIES OF CRIMINAL HISTORY OF APPLICANTS FOR LICENSURE AS POLYSOMNOGRAPHIC TECHNOLOGISTS.

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 42.

"Polysomnographic Technologists Licensure Act.

**"§ 90-710. Legislative findings.**

The General Assembly finds that the practice of polysomnography is an area of health care that is continually evolving to include more sophisticated and demanding patient care activities. The General Assembly further finds that the practice of polysomnography by unauthorized, unqualified, unprofessional, and incompetent persons is a threat to public health, safety, and welfare. Therefore, it is necessary to establish minimum standards of education, training, and competency for persons engaged in the practice of polysomnography in this State.

**"§ 90-711. Definitions.**

The following definitions apply in this Article:

- (1) Board. – The North Carolina Respiratory Care Board, as established under Article 38 of this Chapter.
- (2) Committee. – The North Carolina Polysomnography Advisory Committee.

- 1           (3)   Licensee. – A person who has been issued a license to practice  
2           polysomnography under this Article.
- 3           (4)   Polysomnography. – The process of analysis, attended monitoring, and  
4           recording of physiologic data during sleep and wakefulness to assist in  
5           the assessment and diagnosis of sleep and wake disorders and other  
6           disorders, syndromes, and dysfunctions that are sleep-related, manifest  
7           during sleep, or disrupt normal sleep and wake cycles and activities.
- 8           (5)   Polysomnography protocols. – Policies developed or approved by a  
9           licensed health care facility through collaboration with physicians,  
10           licensed polysomnographic technologists, and other licensed health  
11           care professionals that establish guidelines related to  
12           polysomnography.
- 13           (6)   Practice of polysomnography. – The performing of functions, under  
14           the supervision of a licensed physician, necessary for the diagnostic  
15           testing, research, control, education, and care of patients with sleep  
16           and wake disorders under a qualified medical director, including the  
17           process of analyzing, monitoring, and recording physiologic data  
18           during sleep and wakefulness to assess, diagnose, and assist in the  
19           treatment and research of disorders, syndromes, and dysfunctions that  
20           are sleep-related, manifest during sleep, or disrupt normal sleep and  
21           wake cycles and activities. Polysomnography shall also include the  
22           therapeutic and diagnostic use of oxygen, noninvasive ventilatory  
23           assistance of spontaneously breathing patients, and cardiopulmonary  
24           resuscitation, maintenance of nasal and oral airways that do not extend  
25           into the trachea, and transcription and implementation of the written or  
26           verbal orders of a physician pertaining to the practice of  
27           polysomnography.
- 28           (7)   Registered polysomnographic technologist. – A person who has  
29           successfully completed the examination process and has been issued a  
30           certificate by the Board of Registered Polysomnographic  
31           Technologists or its successor organization to practice  
32           polysomnography.
- 33           (8)   Sleep disorders center or laboratory. – A facility providing clinical  
34           diagnostic services or treatment for patients who present with  
35           symptoms or features that suggest the presence of a sleep disorder.

36   **"§ 90-712. Respiratory Care Board approval required.**

37       The Committee shall report to the Respiratory Care Board all actions taken by the  
38       Committee pursuant to this Article, except for actions taken by the Committee pursuant  
39       to G.S. 90-714. No action by the Committee is effective unless the action is approved by  
40       the Board. The Board may also rescind or supersede, in whole or in part, any action  
41       taken by the Committee in carrying out the provisions of this Article, except for actions  
42       taken by the Committee pursuant to G.S. 90-714.

43   **"§ 90-713. License required; exemptions.**

1       (a) On or after October 1, 2009, no person shall practice polysomnography, offer  
2 to practice polysomnography, or employ unlicensed persons to practice  
3 polysomnography as defined in this Article, use the title 'licensed polysomnographic  
4 technologist,' 'licensed sleep technologist,' 'provisional licensed polysomnographic  
5 technologist,' or 'provisional licensed sleep technologist,' use the letters 'LST,' 'LST-P,'  
6 or otherwise imply orally or in writing or indicate in any way that the person is licensed  
7 to practice polysomnography unless that person is currently licensed as provided in this  
8 Article.

9       (b) The provisions of this Article shall not apply to:

10       (1) Any person registered, certified, credentialed, or licensed to engage in  
11 another profession or occupation or any person working under the  
12 supervision of a person registered, certified, credentialed, or licensed  
13 to engage in another profession or occupation in this State if the person  
14 is performing work incidental to or within the practice of that  
15 profession or occupation and the person does not represent himself or  
16 herself as a licensed polysomnographic technologist or a provisionally  
17 licensed polysomnographic technologist.

18       (2) A student enrolled in an accredited polysomnography education  
19 program if polysomnography services performed by the student are an  
20 integral part of the student's course of study and are performed under  
21 the direct supervision of a licensed polysomnographic technologist.

22       (3) A polysomnographic technologist employed by the United States  
23 government when performing duties associated with that employment.

24 **"§ 90-714. Polysomnography Advisory Committee.**

25       (a) Composition and Terms. – The North Carolina Polysomnography Advisory  
26 Committee is created. The Committee shall consist of five members who shall serve  
27 staggered terms. On or before July 1, 2008, the initial Committee members shall be  
28 selected as follows:

29       (1) The North Carolina Respiratory Care Board shall appoint two licensed  
30 polysomnographic technologists, one of whom shall serve a term of  
31 three years and one of whom shall serve a term of two years.

32       (2) The North Carolina Medical Board shall appoint one physician who is  
33 licensed under Article 1 of Chapter 90 of the General Statutes and is  
34 Certified by the American Board of Sleep Medicine or a certifying  
35 board approved by the American Board of Medicine Specialties, who  
36 shall serve a term of three years.

37       (3) The North Carolina Hospital Association shall appoint one member  
38 who shall serve a term of two years.

39       (4) The Governor shall appoint one public member who shall serve a term  
40 of one year.

41       Upon the expiration of the terms of the initial Committee members, members shall  
42 be appointed by the appointing authorities designated in subdivisions (1) through (4) of  
43 this subsection for a term of three years and shall serve until a successor is appointed.  
44 No member may serve more than two consecutive full terms.

1       (b) Qualifications. – Members of the Committee shall be citizens of the United  
2 States and residents of this State. The polysomnographic technologist members shall  
3 hold current licenses from the Committee and shall remain in good standing with the  
4 Committee during their terms. Public members of the Committee shall not be: (i) trained  
5 or experienced in the practice of polysomnography, (ii) an agent or employee of a  
6 person engaged in the practice of polysomnography, (iii) a health care professional  
7 licensed under this Chapter or a person enrolled in a program to become a licensed  
8 health care professional, (iv) an agent or employee of a health care institution, a health  
9 care insurer, or a health care professional school, (v) a member of an allied health  
10 profession or a person enrolled in a program to become a member of an allied health  
11 profession, or (vi) a spouse of an individual who may not serve as a public member of  
12 the Committee.

13       (c) Vacancies. – Any vacancy shall be filled by the authority originally filling  
14 that position. Appointees to fill vacancies shall serve the remainder of the unexpired  
15 term and until their successors have been duly appointed and qualified.

16       (d) Removal. – The Committee may remove any of its members for neglect of  
17 duty, incompetence, or unprofessional conduct. A member subject to disciplinary  
18 proceedings in his or her capacity as a licensed polysomnographic technologist shall be  
19 disqualified from participating in the official business of the Committee until the  
20 charges have been resolved.

21       (e) Compensation. – Each member of the Committee shall receive per diem and  
22 reimbursement for travel and subsistence as provided in G.S. 93B-5.

23       (f) Officers. – The officers of the Committee shall be a chair, a vice-chair, and  
24 other officers deemed necessary by the Committee to carry out the purposes of this  
25 Article. Each officer shall be elected annually by the Committee for a one-year term and  
26 shall serve until his or her successor is elected and qualified.

27       (g) Meetings. – The Committee shall hold its first meeting within 30 days after  
28 the appointment of its members and shall hold at least two meetings each year to  
29 conduct business and to review the standards and rules previously adopted by the  
30 Committee. The Committee shall establish the procedures for calling, holding, and  
31 conducting regular and special meetings. A majority of Committee members constitutes  
32 a quorum.

33 **"§ 90-715. Powers of the Committee.**

34       The Committee shall have the power and duty to:

- 35       (1) Administer this Article.
- 36       (2) Issue interpretations of this Article.
- 37       (3) Adopt, amend, or repeal rules as may be necessary to carry out the  
38 provisions of this Article.
- 39       (4) Employ and fix the compensation of personnel that the Committee  
40 determines is necessary to carry into effect the provisions of this  
41 Article and incur other expenses necessary to effectuate this Article.
- 42       (5) Determine the qualifications and fitness of applicants for licensure,  
43 provisional licensure, licensure renewal, and reciprocal licensure.

- 1           (6)   Request that the Department of Justice conduct criminal history record  
2           checks of applicants for licensure in accordance with G.S. 114-19.11B.
- 3           (7)   Issue, renew, deny, suspend, or revoke licenses, order probation, issue  
4           reprimands, and carry out any other disciplinary actions authorized by  
5           this Article.
- 6           (8)   Set fees for licensure, provisional licensure, temporary licensure,  
7           licensure renewal, late licensure renewal, and other services deemed  
8           necessary to carry out the purposes of this Article.
- 9           (9)   Establish continuing education requirements for licensees.
- 10          (10)  Establish a code of ethics for licensees.
- 11          (11)  Maintain a current list of all persons who have been licensed under this  
12          Article.
- 13          (12)  Conduct inspections of sleep disorders centers and laboratories.
- 14          (13)  Conduct investigations, subpoena individuals and records, and do all  
15          other things necessary and proper to discipline persons licensed under  
16          this Article and to enforce this Article.
- 17          (14)  Conduct administrative hearings in accordance with Article 3A of  
18          Chapter 150B of the General Statutes.
- 19          (15)  Maintain a record of all proceedings and make available to all  
20          licensees and other concerned parties an annual report of all  
21          Committee action.
- 22          (16)  Adopt a seal containing the name of the Committee for use on all  
23          official documents and reports issued by the Committee.

24   **"§ 90-716. Qualifications for licensure; provision of services.**

25       (a)   An applicant shall be licensed to practice polysomnography if the applicant  
26       meets all of the following qualifications:

- 27           (1)   Is at least 18 years old.
- 28           (2)   Completes an application on a form provided by the Committee.
- 29           (3)   Successfully completes a polysomnography education program  
30           accredited by the Commission on Accreditation of Allied Health  
31           Education Programs (CAAHEP).
- 32           (4)   Pays the required fee under G.S. 90-721.
- 33           (5)   Is a registered polysomnographic technologist.
- 34           (6)   Successfully completes the requirements for Basic Cardiac Life  
35           Support as recognized by the American Heart Association, the  
36           American Red Cross, or the American Safety and Health Institute.

37       (b)   All persons licensed under this section shall practice polysomnography under  
38       the supervision of a physician licensed under Article 1 of Chapter 90 of the General  
39       Statutes.

40       (c)   Polysomnography services shall be provided only when ordered by a  
41       physician who has medical responsibility for the patient.

42   **"§ 90-717. Criminal record checks of applicants for licensure.**

43       (a)   The Committee shall, in its discretion, investigate the background of an  
44       applicant for licensure as a polysomnographic technologist to determine the applicant's

1 qualifications for licensure with due regard given to the applicant's competency,  
2 honesty, truthfulness, and integrity. In accordance with G.S. 114-19.11B, the  
3 Department of Justice may provide a criminal record check to the Committee for a  
4 person who has applied for a license through the Committee. The Committee shall  
5 provide to the Department of Justice, along with the request, the fingerprints of the  
6 applicant, any additional information required by the Department of Justice, and a form  
7 signed by the applicant consenting to the check of the criminal record and to the use of  
8 the fingerprints and other identifying information required by the State or national  
9 repositories. The applicant's fingerprints shall be forwarded to the State Bureau of  
10 Investigation for a search of the State's criminal history record file, and the State Bureau  
11 of Investigation shall forward a set of the fingerprints to the Federal Bureau of  
12 Investigation for a national criminal history check. The Committee shall keep all  
13 information pursuant to this subsection privileged, in accordance with applicable State  
14 law and Federal guidelines, and the information shall be confidential and shall not be a  
15 public record under Chapter 132 of the General Statutes. The Committee shall collect  
16 any fees required by the Department of Justice and shall remit the fees to the  
17 Department of Justice for expenses associated with conducting the criminal history  
18 record check.

19 (b) For purposes of this section, the term 'criminal history' means a history of  
20 conviction of a State crime, whether a misdemeanor or felony, that bears on an  
21 applicant's fitness for licensure as a polysomnographic technologist. The crimes include  
22 the criminal offenses set forth in any of the following Articles of Chapter 14 of the  
23 General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article  
24 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A,  
25 Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and  
26 Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary  
27 Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson  
28 and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18,  
29 Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property  
30 or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B,  
31 Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article  
32 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments;  
33 Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct  
34 in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and  
35 Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family;  
36 Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes  
37 also include possession or sale of drugs in violation of the North Carolina Controlled  
38 Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related  
39 offenses including sale to underage persons in violation of G.S. 18B-302 or driving  
40 while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

41 **"§ 90-718. (Effective until October 1, 2009) Exemption from certain requirements.**

42 (a) The Committee may issue a license to an applicant who, as of October 1,  
43 2008, has passed the registered polysomnographic technologist examination given by  
44 the Board of Registered Polysomnographic Technologists. An applicant applying for

1 licensure under this subsection shall submit his or her application to the Committee  
2 before October 1, 2009, along with payment of the appropriate fees pursuant to  
3 G.S. 90-721(c).

4 (b) The Committee may grant a temporary license to an applicant who, as of  
5 October 1, 2008, does not meet the qualifications of G.S. 90-716 but, through written  
6 evidence verified by oath, demonstrates that he or she is performing the duties of a  
7 polysomnographic technologist within the State. The temporary license is valid until  
8 October 1, 2009, within which time the applicant shall be required to complete the  
9 requirements of G.S. 90-716(a)(5). A license granted under this subsection shall contain  
10 an endorsement indicating that the license is temporary and shall state the date the  
11 license was granted and the date it expires. An applicant applying for a temporary  
12 license under this subsection shall pay the appropriate fees pursuant to G.S. 90-721(c).

13 **"§ 90-719. Reciprocity.**

14 The Committee may grant, upon application and payment of proper fees, a license to  
15 a person who has been licensed to practice polysomnography in another state or  
16 territory of the United States whose standards of competency are substantially  
17 equivalent to those provided in this Article.

18 **"§ 90-720. Provisional license.**

19 The Committee may grant a provisional license for a period not exceeding 12  
20 months to any applicant who has successfully completed an approved polysomnography  
21 education program and pays the required fee under G.S. 90-721. A provisional license  
22 shall allow the individual to practice polysomnography under the direct supervision and  
23 direction of a licensed polysomnographic technologist and in accordance with rules  
24 adopted by the Committee pursuant to this Article. A license granted under this section  
25 shall contain an endorsement indicating that the license is provisional and stating the  
26 terms and conditions of its use by the licensee. The license shall state the date the  
27 license was granted and the date it expires.

28 **"§ 90-721. Expenses; fees.**

29 (a) All fees shall be payable to the Respiratory Care Board and deposited in the  
30 name of the Board in financial institutions designated by the Board as official  
31 depositories. These fees shall be used to carry out the purposes of this Article.

32 (b) All salaries, compensation, and expenses incurred or allowed to carry out the  
33 purposes of this Article shall be paid by the Respiratory Care Board exclusively out of  
34 the fees received by the Board as authorized by this Article or funds received from other  
35 sources. In no case shall any salary, expense, or other obligation authorized by this  
36 Article be charged against the State Treasury.

37 (c) The Committee, upon the approval of the Respiratory Care Board, shall  
38 establish fees not exceeding the following amounts:

- 39 (1) For an initial application, a fee not to exceed fifty dollars (\$50.00).  
40 (2) For issuance of any license, a fee not to exceed one hundred fifty  
41 dollars (\$150.00).  
42 (3) For the renewal of any license, a fee not to exceed seventy-five dollars  
43 (\$75.00).

- 1           (4)   For the late renewal of any license, an additional late fee not to exceed  
2           seventy-five dollars (\$75.00).
- 3           (5)   For a provisional license or a license with a temporary endorsement, a  
4           fee not to exceed fifty dollars (\$50.00).
- 5           (6)   For copies of rules adopted pursuant to this Article and licensure  
6           standards, charges not exceeding the actual cost of printing and  
7           mailing.
- 8           (7)   For official verification of licensure status, a fee not to exceed twenty  
9           dollars (\$20.00).
- 10          (8)   For approval of continuing education programs, a fee not to exceed  
11          one hundred fifty dollars (\$150.00).

12   **"§ 90-722. License as property of the Committee; display requirement; renewal of**  
13   **licenses.**

14          (a)   A license issued by the Committee is the property of the Committee and shall  
15          be surrendered by the licensee to the Committee on demand.

16          (b)   The licensee shall display the license in a manner prescribed by the  
17          Committee.

18          (c)   The licensee shall inform the Committee of any change of the licensee's  
19          name, address, or practice site.

20          (d)   All licenses to practice polysomnography shall expire one year after the date  
21          they were issued. The Committee shall send a notice of expiration to each licensee at his  
22          or her last known address at least 30 days before the expiration of his or her license. All  
23          applications for renewal of unexpired licenses shall be filed with the Committee and  
24          accompanied by proof satisfactory to the Committee that the applicant has completed  
25          the continuing education requirements established by the Committee and the renewal  
26          fee as required by G.S. 90-721(c).

27          (e)   An application for renewal of a license that has been expired for less than two  
28          years shall be accompanied by proof satisfactory to the Committee that the applicant has  
29          satisfied the continuing education requirements established by the Committee and the  
30          renewal and late fees required by G.S. 90-721(c). A license that has been expired for  
31          more than two years shall not be renewed, but the applicant may reapply for licensure  
32          by complying with the current requirements for licensure under this Article.

33   **"§ 90-723. Suspension, revocation, and refusal to renew.**

34          (a)   The Committee may deny, refuse to renew, suspend, or revoke an application  
35          or license, order probation, or issue a reprimand if the applicant or licensee:

36               (1)   Gives false information or withholds material information from the  
37               Committee in procuring or attempting to procure a license.

38               (2)   Gives false information or withholds material information from the  
39               Committee during the course of an investigation conducted by the  
40               Committee.

41               (3)   Has been convicted of or pled guilty or no contest to a crime that  
42               indicates the person is unfit or incompetent to practice  
43               polysomnography as defined in this Article or that indicates the person  
44               has deceived, defrauded, or endangered the public.



1           (4) Has a habitual substance abuse or mental impairment that interferes  
2 with his or her ability to provide appropriate care as established by this  
3 Article or rules adopted by the Committee.

4           (5) Has demonstrated gross negligence, incompetency, or misconduct in  
5 the practice of polysomnography as defined in this Article.

6           (6) Has had an application for licensure or a license to practice  
7 polysomnography in another jurisdiction denied, suspended, or  
8 revoked for reasons that would be grounds for similar action in this  
9 State.

10          (7) Has willfully violated any provision of this Article or rules adopted by  
11 the Committee.

12          (b) The taking of any action authorized under subsection (a) of this section may  
13 be ordered by the Committee after a hearing is held in accordance with Article 3A of  
14 Chapter 150B of the General Statutes. The Committee may reinstate a revoked license if  
15 the Committee finds that the reasons for revocation no longer exist and that the person  
16 can reasonably be expected to perform the services authorized under this Article in a  
17 safe manner.

18 **"§ 90-724. Violation a misdemeanor.**

19          Any person who violates any provision of this Article shall be guilty of a Class 1  
20 misdemeanor.

21 **"§ 90-725. Enjoining illegal practices.**

22          The Board may apply to the superior court for an order enjoining violations of this  
23 Article. Upon a showing by the Board that any person has violated this Article or is  
24 about to violate this Article, the court may grant injunctive relief or take other  
25 appropriate action.

26 **"§ 90-726. Civil penalties; disciplinary costs.**

27          (a) Authority to Assess Civil Penalties. – The Committee may assess a civil  
28 penalty not in excess of one thousand dollars (\$1,000) for the violation of any section of  
29 this Article or the violation of any rules adopted by the Committee. The clear proceeds  
30 of any civil penalty assessed under this section shall be remitted to the Civil Penalty and  
31 Forfeiture Fund in accordance with G.S. 115C-457.2.

32          (b) Consideration Factors. – Before imposing and assessing a civil penalty, the  
33 Committee shall consider the following factors:

34           (1) The nature, gravity, and persistence of the particular violation.

35           (2) The appropriateness of the imposition of a civil penalty when  
36 considered alone or in combination with other punishment.

37           (3) Whether the violation was willful and malicious.

38           (4) Any other factors that would tend to mitigate or aggravate the  
39 violations found to exist.

40          (c) Schedule of Civil Penalties. – The Committee shall establish a schedule of  
41 civil penalties for violations of this Article and rules adopted by the Committee.

42          (d) Costs. – The Committee may assess the costs of disciplinary actions against a  
43 person found to be in violation of this Article or rules adopted by the Committee.

44 **"§ 90-727. Third-party reimbursement.**

1        Nothing in this Article shall be construed to require direct third-party  
2 reimbursements to persons licensed under this Article."

3                **SECTION 2.** G.S. 90-629 reads as rewritten:

4        "**§ 90-649. North Carolina Respiratory Care Board; creation.**

5        (a) The North Carolina Respiratory Care Board is created. The Board shall  
6 consist of ~~10-12~~ members as follows:

7                (1) Two members shall be respiratory care practitioners.

8                (1a) One member shall be a polysomnographic technologist.

9                (2) ~~Four-Five~~ members shall be physicians licensed to practice in North  
10 Carolina, and whose primary practice is Pulmonology,  
11 Anesthesiology, Critical Care Medicine, Sleep Medicine, or whose  
12 specialty is Cardiothoracic Disorders.

13                (3) One member shall represent the North Carolina Hospital Association.

14                (4) One member shall represent the North Carolina Association of  
15 Medical Equipment Services.

16                (5) Two members shall represent the public at large.

17        (b) Members of the Board shall be citizens of the United States and residents of  
18 this State. The respiratory care practitioner members shall have practiced respiratory  
19 care for at least five years and shall be licensed under this Article. The  
20 polysomnographic technologist member shall have practiced polysomnography for at  
21 least five years and shall be licensed under Article 42 of Chapter 90 of the General  
22 Statutes. The public members shall not be: (i) a respiratory care ~~practitioner,~~  
23 or polysomnographic technologist, (ii) an agent or employee of a person engaged in the  
24 profession of respiratory ~~care,~~  
25 care or polysomnography, (iii) a health care professional  
26 licensed under this Chapter or a person enrolled in a program to become a licensed  
27 health care professional, (iv) an agent or employee of a health care institution, a health  
28 care insurer, or a health care professional school, (v) a member of an allied health  
29 profession or a person enrolled in a program to become a member of an allied health  
30 profession, or (vi) a spouse of an individual who may not serve as a public member of  
31 the Board."

32                **SECTION 3.** G.S. 90-650(a) reads as rewritten:

33        "(a) The members of the Board shall be appointed as follows:

34                (1) The Governor shall appoint the public members described in  
35 G.S. 90-649(a)(5).

36                (2) The General Assembly, upon the recommendation of the Speaker of  
37 the House of Representatives, shall appoint one of the respiratory care  
38 practitioner members described in ~~G.S. 90-649(a)(1)~~G.S. 90-649(a)(1),  
39 the polysomnographic technologist member described in  
40 G.S. 90-649(a)(1a), and one of the physician members described in  
41 G.S. 90-649(a)(2) in accordance with G.S. 120-121.

42                (3) The General Assembly, upon the recommendation of the President Pro  
43 Tempore of the Senate, shall appoint one of the respiratory care  
44 practitioner members described in ~~G.S. 90-649(a)(1)~~G.S. 90-649(a)(1),  
the physician member certified in sleep medicine described in

1           G.S. 90-649(a)(2), and one of the physician members described in  
2           G.S. 90-649(a)(2) in accordance with G.S. 120-121.

3           (4) The North Carolina Medical Society shall appoint one of the physician  
4           members described in G.S. 90-649(a)(2).

5           (5) The Old North State Medical Society shall appoint one of the  
6           physician members described in G.S. 96-649(a)(2).

7           (6) The North Carolina Hospital Association shall appoint the member  
8           described in G.S. 90-649(a)(3).

9           (7) The North Carolina Association of Medical Equipment Services shall  
10          appoint the member described in G.S. 90-649(a)(4)."

11          **SECTION 4.** Article 4 of Chapter 114 of the General Statutes is amended by  
12          adding a new section to read:

13          "**§ 114-19.11B. Criminal record checks of applicants for licensure as**  
14          **polysomnographic technologists.**

15          The Department of Justice may provide to the North Carolina Polysomnography  
16          Advisory Committee from the State and National Repositories of Criminal Histories the  
17          criminal history of any applicant for licensure as a polysomnographic technologist  
18          under Article 42 of Chapter 90 of the General Statutes. Along with the request, the  
19          Committee shall provide to the Department of Justice the fingerprints of the applicant, a  
20          form signed by the applicant consenting to the criminal record check and use of  
21          fingerprints and other identifying information required by the State and National  
22          Repositories, and any additional information required by the Department of Justice. The  
23          applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a  
24          search of the State's criminal history record file, and the State Bureau of Investigation  
25          shall forward a set of fingerprints to the Federal Bureau of Investigation for a national  
26          criminal history record check. The Committee shall keep all information obtained  
27          pursuant to this section confidential. The Department of Justice may charge a fee to  
28          offset the cost incurred by it to conduct a criminal record check under this section. The  
29          fee shall not exceed the actual cost of locating, editing, researching, and retrieving the  
30          information."

31          **SECTION 5.** Notwithstanding G.S. 90-714(a)(1), as enacted by Section 1 of  
32          this act, the initial polysomnography technologists appointed to the North Carolina  
33          Polysomnography Advisory Committee by the North Carolina Respiratory Care Board  
34          do not have to meet the licensure requirements established under G.S. 90-716, as  
35          enacted by Section 1 of this act. The appointees must be registered polysomnographic  
36          technologists and must apply for and obtain a license from the Committee within 90  
37          days after the Committee begins issuing licenses.

38          **SECTION 6.** This act is effective when it becomes law.