

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-434
HOUSE BILL 819**

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) Medical Board. – The North Carolina Medical Board established under G.S. 90-2.
- (6) 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.
- (7) Registered polysomnographic technologist. – A person who is credentialed by the Board as a 'Registered Polysomnographic Technologist' (RPSGT).
- (8) Student. – A person who is enrolled in a polysomnography educational program approved by the Board as an acceptable pathway to meet eligibility requirements for credentialing.

"§ 90-677.2. Practice of polysomnography.

(a) Practice. – The 'practice of polysomnography' means the performance of any of the following tasks:

- (1) Monitoring and recording physiological data during the evaluation of sleep-related disorders, including sleep-related respiratory disturbances, by applying the following techniques, equipment, or procedures:
 - a. Positive airway pressure (PAP) devices, such as continuous positive airway pressure (CPAP), and bilevel and other approved devices,



providing forms of pressure support used to treat sleep disordered breathing on patients using a mask or oral appliance; provided, the mask or oral appliance does not attach to an artificial airway or extend into the trachea.

- b. Supplemental low flow oxygen therapy, up to eight liters per minute, utilizing nasal cannula or administered with continuous or bilevel positive airway pressure during a polysomnogram.
 - c. Capnography during a polysomnogram.
 - d. Cardiopulmonary resuscitation.
 - e. Pulse oximetry.
 - f. Gastroesophageal pH monitoring.
 - g. Esophageal pressure monitoring.
 - h. Sleep staging, including surface electroencephalography, surface electrooculography, and surface submental or masseter electromyography.
 - i. Surface electromyography.
 - j. Electrocardiography.
 - k. Respiratory effort monitoring, including thoracic and abdominal movement.
 - l. Plethysmography blood flow monitoring.
 - m. Snore monitoring.
 - n. Audio and video monitoring.
 - o. Body movement.
 - p. Nocturnal penile tumescence monitoring.
 - q. Nasal and oral airflow monitoring.
 - r. Body temperature monitoring.
 - s. Actigraphy.
- (2) Observing and monitoring physical signs and symptoms, general behavior, and general physical response to polysomnographic evaluation and determining whether initiation, modification, or discontinuation of a treatment regimen is warranted based on protocol and physician's order.
- (3) Analyzing and scoring data collected during the monitoring described in subdivisions (1) and (2) of this subsection for the purpose of assisting a licensed physician in the diagnosis and treatment of sleep and wake disorders.
- (4) Implementing a written or verbal order from a licensed physician that requires the practice of polysomnography.
- (5) Educating a patient regarding polysomnography and sleep disorders.

(b) Limitations. – The practice of polysomnography shall be performed under the general supervision of a licensed physician. The practice of polysomnography shall take place in a hospital, a stand-alone sleep laboratory or sleep center, or a patient's home. However, the scoring of data and education of patients may take place in settings other than a hospital, stand-alone sleep laboratory or sleep center, or patient's home.

"§ 90-677.3. Unlawful acts.

(a) Unlawful Act. – On or after January 1, 2012, it shall be unlawful for a person to do any of the following unless the person is listed with the Medical Board as provided in this Article:

- (1) Practice polysomnography.
- (2) Represent, orally or in writing, that the person is credentialed to practice polysomnography.
- (3) Use the title 'Registered Polysomnographic Technologist' or the initials 'RPSGT.'

(b) Violations. – A violation of this section is a Class 1 misdemeanor. Complaints and investigations of violations of this Article shall be directed to and conducted by the Board. The court may issue injunctions or restraining orders to prevent further violations under this Article.

"§ 90-677.4. Exemptions.

The provisions of this Article do not apply to any of the following:

- (1) A person registered, certified, credentialed, or licensed to engage in another profession or occupation or any person working under the supervision of a

- person registered, certified, credentialed, or licensed to engage in another profession or occupation in this State if the person is performing work incidental to or within the scope of practice of that profession or occupation and the person does not represent himself or herself as a registered polysomnographic technologist.
- (2) An individual employed by the United States government when performing duties associated with that employment.
 - (3) Research investigation that monitors physiological parameters during sleep or wakefulness, provided that the research investigation has been approved and deemed acceptable by an institutional review board, follows conventional safety measures required for the procedures, and the information is not obtained or used for the practice of clinical medicine.
 - (4) A physician licensed to practice medicine under Article 1 of Chapter 90 of the General Statutes or a physician assistant or nurse practitioner licensed to perform medical acts, tasks, and functions under Article 1 of Chapter 90 of the General Statutes.
 - (5) A student actively enrolled in a polysomnography education program if:
 - a. Polysomnographic services and post-training experience are performed by the student as an integral part of the student's course of study;
 - b. The polysomnographic services are performed under the direct supervision of a registered polysomnographic technologist; and
 - c. The student adheres to post-training examination guidelines established by the Board.

"§ 90-677.5. Listing requirements.

(a) Annual Listing. – A person may not practice polysomnography under this Article unless the person is listed with the Medical Board. In order to be listed with the Medical Board, a person must annually submit on or before September 1 of each year all of the following information to the Medical Board in the manner prescribed by the Medical Board:

- (1) The person's full legal name.
- (2) The person's complete address and telephone number.
- (3) Evidence that the person is currently credentialed in good standing by the Board as a Registered Polysomnographic Technologist (RPSGT).
- (4) The date the person was credentialed by the Board to practice polysomnography.
- (5) A nonrefundable listing fee of fifty dollars (\$50.00).

(b) Listing. – The Medical Board must maintain a listing of polysomnographic technologists that have submitted proof of credentials under this section. The Board must promptly notify the Medical Board, by mail or electronic means, when a person's credential is revoked or no longer in effect. Upon receipt of this notification, the Medical Board must remove the person's name from the list."

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

SECTION 3. This act becomes effective October 1, 2009.
In the General Assembly read three times and ratified this the 29th day of July, 2009.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 10:52 a.m. this 7th day of August, 2009