

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 819\*

Short Title: Polysomnography Practice Act. (Public)

Sponsors: Representatives M. Alexander, Wainwright, Moore (Primary Sponsors); and Lucas.

Referred to: Judiciary I, if favorable, Finance.

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, as performed by polysomnographic technologists or  
34 polysomnographic students who are permitted to perform polysomnography  
35 services under this Article.



- 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 the certification.

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

9       (a)   The 'practice of polysomnography' means the performance of any of the following  
10       tasks under the general supervision of a licensed physician:

- 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 bi-level 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 bi-level  
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 take place in a hospital, a stand-alone sleep  
5 laboratory or sleep center, or a patient's home. However, the scoring of data and education of  
6 patients may take place in settings other than a sleep laboratory or sleep center.

7 **"§ 90-677.3. Unlawful acts; injunctive relief.**

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

12           (b) A violation of subsection (a) of this section constitutes an unlawful act and a court  
13 may impose a penalty or issue an injunction or restraining order to prevent further violations  
14 under this Article.

15 **"§ 90-677.4. Exemptions.**

16           The provisions of this Article shall not apply to:

17           (1) Any person registered, certified, credentialed, or licensed to engage in  
18 another profession or occupation or any person working under the  
19 supervision of a person registered, certified, credentialed, or licensed to  
20 engage in another profession or occupation in this State if the person is  
21 performing work incidental to or within the scope of practice of that  
22 profession or occupation and the person does not represent himself or herself  
23 as a registered polysomnographic technologist.

24           (2) An individual employed by the United States government when performing  
25 duties associated with that employment.

26           (3) Research investigation that monitors physiological parameters during sleep  
27 or wakefulness provided that the research investigation has been approved  
28 and deemed acceptable by an institutional review board, follows  
29 conventional safety measures required for the procedures, and the  
30 information is not obtained or used for the practice of clinical medicine.

31           (4) A physician licensed to practice medicine under Article 1 of Chapter 90 of  
32 the General Statutes or a physician's assistant or nurse practitioner licensed  
33 to perform medical acts, tasks, and functions under Article 1 of Chapter 90  
34 of the General Statutes.

35           (5) A student actively enrolled in a polysomnography education program if:

36           a. Polysomnographic services and post training experience are  
37 performed by the student as an integral part of the student's course of  
38 study;

39           b. The polysomnographic services are performed under the direct  
40 supervision of a registered polysomnographic technologist; and

41           c. The student adheres to post training examination guidelines  
42 established by the Board.

43 **"§ 90-677.5. Listing by Secretary.**

44           (a) Before engaging in the practice of polysomnography pursuant to this Article, each  
45 registered polysomnographic technologist shall remit to the Secretary a fee of fifty dollars  
46 (\$50.00) and file with the Secretary the following:

47           (1) The registered polysomnographic technologist's full legal name.

48           (2) The registered polysomnographic technologist's complete address and  
49 telephone number.

50           (3) The date the registered polysomnographic technologist was credentialed by  
51 the Board.

1 Registration as a registered polysomnographic technologist is not effective until the registered  
2 polysomnographic technologist has presented to the Secretary a copy of the registered  
3 polysomnographic technologist's Board-credentialing document or has arranged for the Board  
4 to electronically notify the Secretary of the registered polysomnographic technologist's  
5 credentials and the Secretary has received notice from the Board. The Secretary shall develop a  
6 form for applicants seeking to file as registered polysomnographic technologists and may  
7 require that filing be made by electronic filing and electronic fee payment. A filing with the  
8 Secretary is void if a check or other payment of a required fee is returned to the Secretary by  
9 the issuing institution for insufficient funds or other similar reason.

10 (b) The Secretary shall maintain a listing of all current registered polysomnographic  
11 technologists. All fees paid to the Secretary shall be used to pay the costs incurred in  
12 administering and enforcing this Article. The Board shall promptly notify the Secretary, by  
13 mail or electronic means, when a person's credential is revoked or no longer in effect. If the  
14 Secretary is notified that a registrant's credential is revoked or no longer in effect, the Secretary  
15 shall promptly amend the listing in accordance with the Board's notice.

16 (c) A listing automatically expires on the 30<sup>th</sup> day of September of each year. A listing  
17 shall be renewed annually upon the filing of a new listing form, credential verification, and  
18 filing fee."

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

25 **SECTION 3.** This act is effective when it becomes law.