

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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D

HOUSE DRH50645-LUfqq-121 (4/30)

Short Title: Polysomnography Practice Act.

(Public)

Sponsors: Representative Wainwright.

Referred to:

A BILL TO BE ENTITLED

AN ACT ESTABLISHING 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 42.

"Polysomnography Practice Act.

**"§ 90-710. Title; purpose.**

(a) This Article may be cited as the 'Polysomnography Practice Act'.

(b) The practice of polysomnography affects the public health, safety, and welfare. It is the purpose of this Article, through the licensure and regulation of persons practicing as polysomnographic technologists, to ensure minimum standards of competency and to provide the public with safe polysomnography services.

**"§ 90-711. Definitions.**

The following definitions apply in this Article:

(1) Committee. – The North Carolina Polysomnography Professional Standards Committee.

(2) Direct 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 supervisor is required throughout the performance of a polysomnographic 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 supervisor is not required during

- 1                   the performance of the polysomnographic procedure, but the  
2                   supervisor must be available for assistance, if needed.
- 3           (4)       Licensee. – A person who has been issued a license to practice  
4                   polysomnography under this Article.
- 5           (5)       Licensed physician. – A physician licensed to practice medicine under  
6                   Article 1 of Chapter 90 of the General Statutes.
- 7           (6)       Medical Board. – The North Carolina Medical Board, as established  
8                   under Article 1 of Chapter 90 of the General Statutes.
- 9           (7)       Polysomnography. – The allied health specialty involving the process  
10                   of attended and unattended monitoring, analysis, and recording of  
11                   physiological data during sleep and wakefulness to assist in the  
12                   assessment of sleep and wake disorders and other sleep disorders,  
13                   syndromes, and dysfunctions that are sleep-related, manifest during  
14                   sleep, or disrupt normal sleep and wake cycles and activities, as  
15                   performed by polysomnographic technologists, polysomnographic  
16                   technicians, polysomnographic trainees, or polysomnographic students  
17                   who are permitted to perform polysomnography services under this  
18                   Article.
- 19           (8)       Polysomnographic student. – A person who is actively enrolled in a  
20                   polysomnography program accredited by the Commission on  
21                   Accreditation of Allied Health Education Programs (CAAHEP), an  
22                   Accredited Sleep Technologist Educational Program (A-STEP), or the  
23                   Committee on Accreditation of Education for Polysomnographic  
24                   Technologists (CoAPSG), but is not employed in the field of  
25                   polysomnography; however, the student may provide  
26                   polysomnographic services with a temporary license from the  
27                   Committee as part of the student's educational program under the  
28                   direct supervision of a licensed polysomnographic technologist and  
29                   under the general supervision of a licensed physician.
- 30           (9)       Polysomnographic technician. – A person who has been employed  
31                   full-time at least six months in the practice of polysomnography but  
32                   has not passed the national certifying examination given by the Board  
33                   of Registered Polysomnographic Technologists (BRPT) and does not  
34                   hold the credential Registered Polysomnographic Technologist  
35                   (RPSGT). This person may practice polysomnography with a  
36                   provisional license from the Committee under the general supervision  
37                   of both a licensed polysomnographic technologist and a licensed  
38                   physician.
- 39           (10)       Polysomnographic technologist. – A person who has passed the  
40                   examination given by the Board of Registered Polysomnographic  
41                   Technologists (BRPT), the worldwide credentialing agency for  
42                   polysomnography, received the credential of Registered  
43                   Polysomnographic Technologist (RPSGT), and is fully licensed by the

1                    Committee to engage in the practice of polysomnography under the  
2                    general supervision of a licensed physician.

- 3                    (11) Polysomnographic trainee. – A person who has been employed  
4                    full-time less than six months in the practice of polysomnography, but  
5                    has not passed the national certifying examination given by the Board  
6                    of Registered Polysomnographic Technologists (BRPT) and does not  
7                    hold the credential Registered Polysomnographic Technologist  
8                    (RPSGT). This person may practice polysomnography with a  
9                    temporary license from the Committee under the direct supervision of  
10                   a licensed polysomnographic technologist and the general supervision  
11                   of a licensed physician.

12 **"§ 90-712. Practice of polysomnography.**

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

- 15                   (1) Monitoring and recording physiologic data during the evaluation of  
16                   sleep-related disorders, including sleep-related respiratory  
17                   disturbances, by applying the following techniques, equipment, or  
18                   procedures:
- 19                   a. Continuous or bi-level positive airway pressure titrations used  
20                   to treat sleep disordered breathing on patients using a mask or  
21                   oral appliance, provided the mask or oral appliance does not  
22                   extend into the trachea or attach to an artificial airway.
  - 23                   b. Supplemental low flow oxygen therapy, up to six liters per  
24                   minute, utilizing nasal cannula or administered with continuous  
25                   or bi-level positive airway pressure during a polysomnogram.
  - 26                   c. Capnography during a polysomnogram.
  - 27                   d. Cardiopulmonary resuscitation.
  - 28                   e. Pulse oximetry.
  - 29                   f. Gastroesophageal pH monitoring.
  - 30                   g. Esophageal pressure monitoring.
  - 31                   h. Sleep staging, including surface electroencephalography,  
32                   surface electrooculography, and surface submental or masseter  
33                   electromyography.
  - 34                   i. Surface electromyography.
  - 35                   j. Electrocardiography.
  - 36                   k. Respiratory effort monitoring, including thoracic and abdominal  
37                   movement.
  - 38                   l. Plethysmography blood flow monitoring.
  - 39                   m. Snore monitoring.
  - 40                   n. Audio and video monitoring.
  - 41                   o. Body movement.
  - 42                   p. Nocturnal penile tumescence monitoring.
  - 43                   q. Nasal and oral airflow monitoring.
  - 44                   r. Body temperature monitoring.

1           s.     Actigraphy.

2           (2)   Observing and monitoring physical signs and symptoms, general  
3           behavior, and general physical response to polysomnographic  
4           evaluation and determining whether initiation, modification, or  
5           discontinuation of a treatment regimen is warranted based on protocol  
6           and physician's order.

7           (3)   Analyzing and scoring data collected during the monitoring described  
8           in subdivisions (1) and (2) of this subsection for the purpose of  
9           assisting a licensed physician in the diagnosis and treatment of sleep  
10           and wake disorders.

11           (4)   Implementing a written or verbal order from a licensed physician that  
12           requires the practice of polysomnography.

13           (5)   Educating a patient regarding the treatment regimen that assists the  
14           patient in improving the patient's sleep.

15           (b)   The practice of polysomnography shall take place in a hospital, a stand-alone  
16           sleep laboratory or sleep center, or a patient's home. However, the scoring of data and  
17           education of patients may take place in settings other than a sleep laboratory or sleep  
18           center.

19    **"§ 90-713. License required; exemptions.**

20           (a)   On or after January 1, 2010, no person shall practice polysomnography, offer  
21           to practice polysomnography, or employ unlicensed persons to practice  
22           polysomnography as defined in this Article, use the title 'licensed registered  
23           polysomnographic technologist,' or otherwise indicate or imply orally or in writing that  
24           the person is licensed to practice polysomnography unless that person is currently  
25           licensed as provided in this Article.

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

27           (1)   Any person registered, certified, credentialed, or licensed to engage in  
28           another profession or occupation or any person working under the  
29           supervision of a person registered, certified, credentialed, or licensed  
30           to engage in another profession or occupation in this State if the person  
31           is performing work incidental to or within the practice of that  
32           profession or occupation and the person does not represent himself or  
33           herself as a licensed polysomnographic technologist or a provisionally  
34           licensed polysomnographic technologist.

35           (2)   A polysomnographic technologist employed by the United States  
36           government when performing duties associated with that employment.

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

43    **"§ 90-714. The North Carolina Polysomnography Professional Standards**  
44           **Committee.**

1       (a) Composition and Terms. – The North Carolina Polysomnography  
2 Professional Standards Committee is created. The Committee shall consist of seven  
3 members who shall serve staggered terms. On or before July 1, 2008, the initial  
4 Committee members shall be selected by the Governor as follows:

5           (1) Three licensed registered polysomnographic technologists upon the  
6 recommendation of the North Carolina Association of Sleep  
7 Technologists (NCAST), one of whom shall serve a four-year term,  
8 one of whom shall serve a two-year term, and one of whom shall serve  
9 a one-year term. NCAST may submit a list of three names for each of  
10 these seats on the Committee.

11           (2) One physician licensed under Article 1 of Chapter 90 of the General  
12 Statutes who is certified in sleep medicine by a national certifying  
13 body recognized by the American Academy of Sleep Medicine  
14 (AASM), who shall serve a three-year term. The North Carolina  
15 Medical Society may submit a list of three names for this seat on the  
16 Committee.

17           (3) One person who is the polysomnographic director, manager, or  
18 supervisor of an accredited, hospital-based sleep center by the  
19 American Academy of Sleep Medicine (AASM), who shall serve a  
20 two-year term. The North Carolina Hospital Association may submit a  
21 list of three names for this seat on the Committee.

22           (4) One person who is a Registered Electro-Encephalogram Technologist  
23 (R.EEG.T) who is also a registered polysomnographic technologist,  
24 who shall serve a four-year term. The North Carolina  
25 Electro-Encephalogram Society may submit a list of three names for  
26 this seat on the Committee.

27           (5) One public member who shall serve a three-year term.

28       Upon the expiration of the terms of the initial Committee members, members shall  
29 be appointed for a term of four years and shall serve until a successor is appointed. No  
30 member may serve more than two consecutive full terms.

31       (b) Qualifications. – Members of the Committee shall be citizens of the United  
32 States and residents of this State. In making appointments to the Committee, the  
33 Governor shall strive to ensure that at least one Committee member is 50 years of age or  
34 older and at least one member is of a racial minority. The polysomnographic  
35 technologist members shall hold current licenses from the Committee and shall remain  
36 in good standing with the Committee during their terms. The public member of the  
37 Committee shall not be: (i) trained or experienced in the practice of polysomnography,  
38 (ii) an agent or employee of a person engaged in the practice of polysomnography, (iii)  
39 a health care professional licensed under this Chapter or a person enrolled in a program  
40 to become a licensed health care professional, (iv) an agent or employee of a health care  
41 institution, a health care insurer, or a health care professional school, (v) a member of an  
42 allied health profession or a person enrolled in a program to become a member of an  
43 allied health profession, or (vi) a spouse of an individual who may not serve as a public  
44 member of the Committee.

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

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

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

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

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

21 **"§ 90-715. Actions; powers of the Committee.**

22       (a) All Committee actions shall be approved by the Medical Board for  
23 Committee actions to become effective. All actions of the Committee shall be  
24 considered by the Medical Board at its next regular meeting after the Committee has  
25 acted.

26       (b) The Committee shall have the power and duty to:

27           (1) Administer this Article.

28           (2) Issue interpretations of this Article.

29           (3) Adopt, amend, or repeal rules as may be necessary to carry out the  
30 provisions of this Article.

31           (4) Employ and fix the compensation of personnel that the Committee  
32 determines is necessary to carry into effect the provisions of this  
33 Article and incur other expenses necessary to effectuate this Article.

34           (5) Determine the qualifications and fitness of applicants for licensure,  
35 provisional licensure, licensure renewal, and reciprocal licensure.

36           (6) Request that the Department of Justice conduct criminal history record  
37 checks of applicants for licensure in accordance with G.S. 114-19.11B.

38           (7) Issue, renew, deny, suspend, or revoke licenses, order probation, issue  
39 reprimands, and carry out any other disciplinary actions authorized by  
40 this Article.

41           (8) Set fees for licensure, provisional licensure, temporary licensure,  
42 licensure renewal, late licensure renewal, and other services deemed  
43 necessary to carry out the purposes of this Article.

44           (9) Establish continuing education requirements for licensees.

- 1           (10) Establish a code of ethics for licensees.
- 2           (11) Maintain a current list of all persons who have been licensed under this
- 3           Article.
- 4           (12) Develop standards of care for the practice of polysomnography in this
- 5           State and develop standards of practice in accordance with the
- 6           American Academy of Sleep Medicine (AASM).
- 7           (13) Conduct investigations, subpoena individuals and records, and do all
- 8           other things necessary and proper to discipline persons licensed under
- 9           this Article and to enforce this Article.
- 10          (14) Conduct administrative hearings in accordance with Article 3A of
- 11          Chapter 150B of the General Statutes.
- 12          (15) Maintain a record of all proceedings and make available to all
- 13          licensees and other concerned parties an annual report of all
- 14          Committee action.
- 15          (16) Adopt a seal containing the name of the Committee for use on all
- 16          official documents and reports issued by the Committee.

17 **§ 90-716. Qualifications for licensure; provision of services.**

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

- 20           (1) Is at least 18 years old.
- 21           (2) Is of good moral character.
- 22           (3) Completes an application on a form provided by the Committee.
- 23           (4) Has passed the national certifying examination given by the Board of
- 24           Registered Polysomnographic Technologists (BRPT) and holds the
- 25           credential of Registered Polysomnographic Technologist (RPSGT).
- 26           (5) Meets at least one of the following educational requirements:
  - 27           a. Is a graduate from a polysomnographic educational program
  - 28           accredited by the Commission on Accreditation of Allied
  - 29           Health Education Programs (CAAHEP).
  - 30           b. Is a graduate from any Allied Health Program, including a
  - 31           Electroneurodiagnostic Technologist (END/EDT), Registered
  - 32           Nurse (RN), Licensed Practical Nurse (LPN), Respiratory
  - 33           Therapist (RT), or any other licensed allied health profession
  - 34           approved by the Commission on Accreditation of Allied Health
  - 35           Education Programs (CAAHEP) with the addition of a
  - 36           curriculum in a polysomnography certificate or add-on that is
  - 37           approved by CAAHEP or the Committee on Accreditation of
  - 38           Education for Polysomnographic Technologists (CoAPSG). All
  - 39           respiratory therapist programs with add-ons or certificates
  - 40           approved in conjunction with the Committee on Accreditation
  - 41           of Education for Respiratory Care (CoARC) shall be acceptable
  - 42           until January 1, 2010, after which time all accredited CAAHEP,
  - 43           including respiratory therapy, shall have CoAPSG accreditation
  - 44           for their add-on or certificate program.

1           c.     Has successfully completed an Accredited Sleep Technologist  
2           Educational Program (A-STEP) accredited by the American  
3           Academy of Sleep Medicine (AASM); provided, however, this  
4           option shall not remain available after January 1, 2010, if there  
5           are at least eight polysomnographic technologist educational  
6           programs in North Carolina dispersed throughout the State that  
7           have obtained accreditation, and remain accredited, by the  
8           Commission on Accreditation of Allied Health Educational  
9           Programs (CAAHEP) for two years. If there are not eight  
10           polysomnographic accredited educational programs by January  
11           1, 2012, this option shall remain available until there are eight  
12           programs that have been accredited for two years.

13           Any person who holds the credential of Registered Polysomnographic  
14           Technologist (RPSGT) as of January 1, 2007, shall be exempt from  
15           meeting the requirements under sub-subdivisions a. and b. of this  
16           subdivision.

17           (6)     Maintains and provides proof of continuing education requirements  
18           established by the Board of Registered Polysomnographic  
19           Technologists (BRPT).

20           (7)     Successfully completes the requirements for Basic Cardiac Life  
21           Support as recognized by the American Heart Association, the  
22           American Red Cross, or the American Safety and Health Institute.

23           (8)     Pays the required fee under G.S. 90-722(c).

24     **"§ 90-717. Classifications; identifications of persons providing polysomnography**  
25           **services.**

26           Upon issuance of a license, the following classes of persons may provide  
27           polysomnographic services:

28           (1)     A licensed polysomnographic technologist with the credential  
29           Registered Polysomnographic Technologist (RPSGT) under the  
30           general supervision of a licensed physician. The person shall have a  
31           full license granted by the Committee and use the abbreviation  
32           'L.RPSGT' on the required identification badge.

33           (2)     A polysomnographic technician may provide polysomnographic  
34           services under the general supervision of a licensed polysomnographic  
35           technologist and the general supervision of a licensed physician for a  
36           period of up to three years and shall obtain his or her credential of  
37           Registered Polysomnographic Technologist (RPSGT). The  
38           polysomnographic technician shall obtain a provisional license granted  
39           by the Committee and use the identification of 'Polysomnographic  
40           Technician' on the required identification badge. No abbreviations are  
41           acceptable.

42           (3)     A polysomnographic trainee may provide polysomnographic services  
43           under the direct supervision of a licensed polysomnographic  
44           technologist and the general supervision of a licensed physician for a



1           period of not more than six months and shall obtain a temporary  
2           license granted by the Committee. The polysomnographic trainee shall  
3           use the identification of 'Polysomnographic Trainee' on the required  
4           identification badge up to six months. No abbreviations are acceptable.  
5           If the person is still employed after the completion of six months, the  
6           trainee shall be classified as a polysomnographic technician and shall  
7           apply for a provisional license. The identification as stated in  
8           subdivision (2) of this section shall be reflected on the required  
9           identification badge.

- 10           (4) A polysomnographic student who is not currently employed in the  
11           practice of polysomnography may provide polysomnographic services  
12           under the direct supervision of a licensed polysomnographic  
13           technologist and the general supervision of a licensed physician as part  
14           of the student's educational program with a temporary permit granted  
15           by the Committee. The student shall use the identification  
16           'Polysomnographic Student' on the required identification badge. No  
17           abbreviations are acceptable. If the student is employed for less than  
18           six months while actively enrolled in a polysomnography program, the  
19           student shall be classified as a trainee and shall comply with the  
20           requirements of subdivision (3) of this section. If the student is  
21           employed for at least six months while enrolled in a polysomnography  
22           program, the student shall be classified as a technician and shall  
23           comply with the requirements of subdivision (2) of this section.

24           **"§ 90-718. Criminal record checks of applicants for licensure.**

25           (a) The Committee may, in its discretion, investigate the background of an  
26           applicant for licensure as a polysomnographic technologist to determine the applicant's  
27           qualifications for licensure with due regard given to the applicant's competency,  
28           honesty, truthfulness, and integrity. In accordance with G.S. 114-19.11B, the  
29           Department of Justice may provide a criminal record check to the Committee for a  
30           person who has applied for a license through the Committee. The Committee shall  
31           provide to the Department of Justice, along with the request, the fingerprints of the  
32           applicant, any additional information required by the Department of Justice, and a form  
33           signed by the applicant consenting to the check of the criminal record and to the use of  
34           the fingerprints and other identifying information required by the State or national  
35           repositories. The applicant's fingerprints shall be forwarded to the State Bureau of  
36           Investigation for a search of the State's criminal history record file, and the State Bureau  
37           of Investigation shall forward a set of the fingerprints to the Federal Bureau of  
38           Investigation for a national criminal history check. The Committee shall keep all  
39           information pursuant to this subsection privileged, in accordance with applicable State  
40           law and federal guidelines, and the information shall be confidential and shall not be a  
41           public record under Chapter 132 of the General Statutes. The Committee shall collect  
42           any fees required by the Department of Justice and shall remit the fees to the  
43           Department of Justice for expenses associated with conducting the criminal history  
44           record check.

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

23 **"§ 90-719. Reciprocity; licensure of nonresidents.**

24 (a) The Committee may grant, upon application and payment of proper fees, a  
25 license to a person who has obtained the credential Registered Polysomnographic  
26 Technologist (RPSGT) to practice polysomnography in another state or territory of the  
27 United States whose standards of competency are substantially equivalent to those  
28 provided in this Article.

29 (b) The Committee may grant, upon application and payment of proper fees, a  
30 license to a nonresident entering this State to practice polysomnography if the person  
31 meets the requirements under G.S. 90-716(a)(5), G.S. 90-717, or subsection (a) of this  
32 section. If none of the requirements under G.S. 90-716(a)(5), G.S. 90-717, or subsection  
33 (a) of this section are met, the person shall meet all requirements under this Article.

34 **"§ 90-720. Provisional license.**

35 A provisional license shall allow a polysomnographic technician to practice  
36 polysomnography under the general supervision of a licensed polysomnographic  
37 technologist and general supervision of a licensed physician in accordance with the  
38 rules adopted by the Committee. A license granted under this section shall contain an  
39 endorsement indicating that the license is provisional and state the terms and conditions  
40 of its use by the licensee, the date the license was granted, and the date it expires.  
41 Provisional licenses shall be renewed upon payment of the required fee under  
42 G.S. 90-722(c).

43 **"§ 90-721. Temporary license.**

1        A temporary license shall allow a polysomnographic trainee or polysomnographic  
2 student enrolled in an accredited education program where polysomnography services  
3 performed by the student are an integral part of the student's course of study to practice  
4 polysomnography under the direct supervision of a licensed polysomnographic  
5 technologist and the general supervision of a licensed physician in accordance with  
6 rules adopted by the Committee. A license granted under this section shall contain an  
7 endorsement indicating the license is temporary and state the terms and conditions of its  
8 use by the licensee, the date the license was granted, and the date it expires. Temporary  
9 licenses shall be renewed upon payment of the required fee under G.S. 90-722(c).

10 **"§ 90-722. Expenses; fees.**

11        (a) All fees shall be payable to the Medical Board and deposited in the name of  
12 the Medical Board in financial institutions designated by the Medical Board as official  
13 depositories. These fees shall be used to carry out the purposes of this Article.

14        (b) All salaries, compensation, and expenses incurred or allowed to carry out the  
15 purposes of this Article shall be paid by the Medical Board exclusively out of the fees  
16 received by the Medical Board as authorized by this Article or funds received from  
17 other sources. In no case shall any salary, expense, or other obligation authorized by this  
18 Article be charged against the State Treasury.

19        (c) The Committee, upon the approval of the Medical Board, shall establish fees  
20 not to exceed the following amounts:

- 21            (1) For an initial application, a fee not to exceed fifty dollars (\$50.00).
- 22            (2) For issuance of any license, a fee not to exceed one hundred fifty  
23 dollars (\$150.00).
- 24            (3) For the renewal of any license, a fee not to exceed seventy-five dollars  
25 (\$75.00).
- 26            (4) For the late renewal of any license, an additional late fee not to exceed  
27 seventy-five dollars (\$75.00).
- 28            (5) For a provisional license, a fee not to exceed one hundred fifty dollars  
29 (\$150.00).
- 30            (6) For a temporary license, a fee not to exceed fifty dollars (\$50.00).
- 31            (7) For a replacement license, a fee not to exceed seventy-five dollars  
32 (\$75.00).
- 33            (8) For official verification of licensure status, a fee not to exceed twenty  
34 dollars (\$20.00).
- 35            (9) For copies of rules adopted pursuant to this Article and licensure  
36 standards, charges not exceeding the actual cost of printing and  
37 mailing.

38 **"§ 90-723. Content of license.**

39        Each license issued by the Committee shall contain the name of the person to whom  
40 the license is issued, the address of the person, the date and number of the license, the  
41 issuance and expiration date, and any other information the Committee deems  
42 necessary. The address contained on the license shall be the address where all  
43 correspondence and renewal forms from the Committee shall be sent. A person whose  
44 address changes shall within 30 days from the date of the address change notify the

1 Committee of the change. The most recent address contained in the Committee's records  
2 for each licensee shall be the address deemed sufficient for purposes of service of  
3 process.

4 **"§ 90-724. Display of license.**

5 Every person issued a license pursuant to this Article shall either keep the license  
6 prominently displayed in the office or place in which the person practices or have it  
7 stored in a place where it can be immediately produced upon the request of a patient, the  
8 Committee, or the Medical Board.

9 **"§ 90-725. Renewal of licenses.**

10 (a) All licenses to practice polysomnography shall expire one year after the date  
11 they were issued. The Committee shall send a notice of expiration to each licensee at his  
12 or her last known address at least 30 days before the expiration of his or her license. All  
13 applications for renewal of unexpired licenses shall be filed with the Committee and  
14 accompanied by proof satisfactory to the Committee that the applicant has completed  
15 the continuing education requirements established by the Committee and the renewal  
16 fee as required by G.S. 90-722(c).

17 (b) An application for renewal of a license that has been expired for less than two  
18 years shall be accompanied by proof satisfactory to the Committee that the applicant has  
19 satisfied the continuing education requirements established by the Committee and the  
20 renewal and late fees required by G.S. 90-722(c). A license that has been expired for  
21 more than two years shall not be renewed, but the applicant may reapply for licensure  
22 by complying with the current requirements for licensure under this Article.

23 **"§ 90-726. Replacement of license due to loss or name change.**

24 (a) Any person whose license has been lost may make application to the  
25 Committee for a replacement. The application shall be accompanied by an affidavit  
26 setting out the facts concerning the loss of the original license.

27 (b) Any person whose name changes may surrender his or her license and apply  
28 to the Committee for a replacement license.

29 (c) A request for a replacement license under this section shall be accompanied  
30 by the required fee under G.S. 90-722(c).

31 **"§ 90-727. Retirement of license.**

32 Any person issued a license to practice under this Article who wishes to retire the  
33 license shall file with the Committee an affidavit on a form to be furnished by the  
34 Committee stating the date the person retired from practice and any other facts the  
35 Committee, in its discretion, deems necessary to verify the retirement. If a person who  
36 has retired his or her license thereafter wishes to reenter the polysomnography practice,  
37 the person shall request reinstatement of licensure in accordance with rules adopted by  
38 the Committee.

39 **"§ 90-728. Suspension, revocation, and refusal to renew.**

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

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

- 1           (2)   Gives false information or withholds material information from the  
2           Committee during the course of an investigation conducted by the  
3           Committee.
- 4           (3)   Has been convicted of or pled guilty or no contest to a crime that  
5           indicates the person is unfit or incompetent to practice  
6           polysomnography as defined in this Article or that indicates the person  
7           has deceived, defrauded, or endangered the public.
- 8           (4)   Has a habitual substance abuse or mental impairment that interferes  
9           with his or her ability to provide appropriate care as established by this  
10           Article or rules adopted by the Committee.
- 11           (5)   Has demonstrated gross negligence, incompetency, or misconduct in  
12           the practice of polysomnography as defined in this Article.
- 13           (6)   Has had an application for licensure or a license to practice  
14           polysomnography in another jurisdiction denied, suspended, or  
15           revoked for reasons that would be grounds for similar action in this  
16           State.
- 17           (7)   Has demonstrated immoral, unethical, unprofessional, or dishonorable  
18           conduct.
- 19           (8)   Violates the code of ethics adopted by the Committee for  
20           polysomnographic technologists.
- 21           (9)   Uses or attempts to use a polysomnographic procedure or equipment  
22           for which the licensee has not received sufficient education or training  
23           in the proper use of that procedure or equipment.
- 24           (10)   Undertakes any duties that are outside the authorized scope of practice  
25           of a licensed polysomnographic technologist as set forth in this Article.
- 26           (11)   Promotes the sale of services, drugs, devices, appliances, or goods to a  
27           patient to exploit the patient for financial gain.
- 28           (12)   Willfully fails to file, or willfully impedes the filing of, any report or  
29           record required by law to be filed.
- 30           (13)   Knowingly engages in the practice of polysomnography with an  
31           unlicensed person, knowingly aids an unlicensed person in the practice  
32           of polysomnography, or knowingly delegates a task involved in the  
33           practice of polysomnography to an unlicensed person.
- 34           (14)   Knowingly fails to meet appropriate standards for the delivery of  
35           polysomnographic services.
- 36           (15)   Breaches patient confidentiality.
- 37           (16)   Pays or agrees to pay any sum or provides any form of remuneration or  
38           material benefit to any person for bringing or referring a patient, or  
39           accepting or agreeing to accept any form of remuneration or material  
40           benefit from a person for bringing or referring a patient.
- 41           (17)   Has willfully violated any provision of this Article or rules adopted by  
42           the Committee.

43           (b)   The taking of any action authorized under subsection (a) of this section may  
44           be ordered by the Committee after a hearing is held in accordance with Article 3A of

1 Chapter 150B of the General Statutes. The Committee may reinstate a revoked license if  
2 the Committee finds that the reasons for revocation no longer exist and that the person  
3 can reasonably be expected to perform the services authorized under this Article in a  
4 safe manner.

5 **"§ 90-729. Investigative and disciplinary process; panels.**

6 (a) The Committee may use one or more screening panels in the investigative  
7 and disciplinary process for violations of this Article to ensure that complaints filed and  
8 investigations conducted are meritorious and to act as a mechanism for resolution of  
9 complaints or diversion to professional peer review organizations, impaired  
10 professionals' associations, or foundations of those cases the Committee, through  
11 established guidelines, deems appropriate.

12 (b) The screening panel has the authority to administer oaths to witnesses.

13 (c) Members of a screening panel may be drawn from the membership of the  
14 Committee or may be appointed by the Committee. Noncommittee members shall meet  
15 the requirements of membership on the Committee and may include a consumer  
16 member. A Committee member serving on a panel shall not participate in a contested  
17 case involving any matter heard by the panel.

18 **"§ 90-730. Violation a misdemeanor.**

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

21 **"§ 90-731. Enjoining illegal practices.**

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

26 **"§ 90-732. 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 **"§ 90-733. 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.** Article 4 of Chapter 114 of the General Statutes is amended by  
4 adding a new section to read:

5 **"§ 114-19.11B. Criminal record checks of applicants for licensure as**  
6 **polysomnographic technologists.**

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

23                **SECTION 3.** Notwithstanding G.S. 90-714(a), as enacted by Section 1 of  
24 this act, the initial licensed registered polysomnographic technologists appointed to the  
25 North Carolina Polysomnography Standards Professional Committee do not have to  
26 meet the licensure requirements established under G.S. 90-716, as enacted by Section 1  
27 of this act. The appointees must be registered polysomnographic technologists and must  
28 apply for and obtain a license from the Committee within 90 days after the Committee  
29 begins issuing licenses.

30                **SECTION 4.** All licensed or unlicensed allied health providers engaged in  
31 the practice of polysomnography in North Carolina as of January 1, 2007, must obtain  
32 their Registered Polysomnographic Technologist (RPSGT) credential within three years  
33 from the effective date of this act to continue practicing polysomnography in this State.  
34 Until the RPSGT credential is obtained, the allied health provider shall be classified as a  
35 polysomnographic technician under Article 42 of Chapter 90 of the General Statutes,  
36 enacted by Section 1 of this act.

37                **SECTION 5.** This act is effective when it becomes law.