

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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HOUSE BILL 2015

Short Title: Polysomnography Practice Act.

(Public)

Sponsors: Representative Wainwright.

Referred to: Judiciary II, if favorable, Finance.

May 10, 2007

1 A BILL TO BE ENTITLED
2 AN ACT ESTABLISHING 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
5 new Article to read:

"Article 42.

"Polysomnography Practice Act.

6 **"§ 90-710. Title; purpose.**

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

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

12 **"§ 90-711. Definitions.**

13 The following definitions apply in this Article:

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

16 (2) Direct supervision. – The authority and responsibility to direct the
17 performance of activities as established by policies and procedures for
18 safe and appropriate completion of polysomnography services
19 whereby the physical presence of a supervisor is required throughout
20 the performance of a polysomnographic procedure.

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

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

10 **"§ 90-712. Practice of polysomnography.**

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

13 (1) Monitoring and recording physiologic data during the evaluation of
14 sleep-related disorders, including sleep-related respiratory
15 disturbances, by applying the following techniques, equipment, or
16 procedures:

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

- 1 (2) Observing and monitoring physical signs and symptoms, general
2 behavior, and general physical response to polysomnographic
3 evaluation and determining whether initiation, modification, or
4 discontinuation of a treatment regimen is warranted based on protocol
5 and physician's order.
- 6 (3) Analyzing and scoring data collected during the monitoring described
7 in subdivisions (1) and (2) of this subsection for the purpose of
8 assisting a licensed physician in the diagnosis and treatment of sleep
9 and wake disorders.
- 10 (4) Implementing a written or verbal order from a licensed physician that
11 requires the practice of polysomnography.
- 12 (5) Educating a patient regarding the treatment regimen that assists the
13 patient in improving the patient's sleep.

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

18 **"§ 90-713. License required; exemptions.**

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

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

- 26 (1) Any person registered, certified, credentialed, or licensed to engage in
27 another profession or occupation or any person working under the
28 supervision of a person registered, certified, credentialed, or licensed
29 to engage in another profession or occupation in this State if the person
30 is performing work incidental to or within the practice of that
31 profession or occupation and the person does not represent himself or
32 herself as a licensed polysomnographic technologist or a provisionally
33 licensed polysomnographic technologist.
- 34 (2) A polysomnographic technologist employed by the United States
35 government when performing duties associated with that employment.
- 36 (3) Research investigation that monitors physiological parameters during
37 sleep or wakefulness provided that the research investigation has been
38 approved and deemed acceptable by an institutional review board,
39 follows conventional safety measures required for the procedures, and
40 the information is not obtained or used for the practice of clinical
41 medicine.

42 **"§ 90-714. The North Carolina Polysomnography Professional Standards**
43 **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.