

Chapter 267

(Senate Bill 641)

AN ACT concerning

Polysomnography – Technologists ~~and Technicians~~ – Licensing Requirements Licensure

FOR the purpose of ~~establishing a polysomnographic technician license; requiring the State Board of Physicians to set certain fees regarding the licensing of polysomnographic technicians; altering the duties of the Polysomnography Professional Standards Committee; altering certain education requirements to qualify for a polysomnographic technologist license; providing for the qualifications for a polysomnographic technician license; requiring the Board to waive certain education requirements for certain applicants for a polysomnographic technologist license under certain circumstances; providing that a certain applicant who qualified for a polysomnographic technician license under certain circumstances is entitled to be licensed for a single term under certain circumstances; providing for the scope of a license to practice polysomnography as a polysomnographic technician; prohibiting the Board from renewing the license of a polysomnographic technician; prohibiting a licensed polysomnographic technician from surrendering or allowing a license to lapse under certain circumstances; defining certain terms; making certain conforming changes~~ extending the date by which an individual is required to be licensed by the State Board of Physicians before the individual may practice polysomnography in the State; extending the date on or before which the Board is required to waive a certain education requirement for certain individuals; extending the date by which certain individuals may petition the Board for a certain extension; and generally relating to licensing requirements for polysomnographic technologists ~~and technicians~~.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section ~~14-5C-01, 14-5C-04, 14-5C-07, 14-5C-09, 14-5C-13, 14-5C-14, 14-5C-16, and 14-5C-18~~ 14-5C-08 and 14-5C-10

Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

~~BY adding to~~

~~Article – Health Occupations~~

~~Section 14-5C-10.1 and 14-5C-10.2~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume and 2010 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health Occupations

~~14-5C-01.~~

~~(a) In this subtitle the following words have the meanings indicated.~~

~~(b) “Board” means the State Board of Physicians.~~

~~(c) “CERTIFIED POLYSOMNOGRAPHIC TECHNICIAN” MEANS A POLYSOMNOGRAPHIC TECHNICIAN WHO IS CERTIFICATED BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNICIANS.~~

~~[(e)] (D) “Committee” means the Polysomnography Professional Standards Committee established under § 14-5C-05 of this subtitle.~~

~~[(d)] (E) “License” means a license issued by the Board.~~

~~(F) “LICENSED POLYSOMNOGRAPHIC TECHNICIAN” MEANS A POLYSOMNOGRAPHIC TECHNICIAN WHO IS LICENSED BY THE BOARD UNDER THIS SUBTITLE TO PRACTICE POLYSOMNOGRAPHY UNDER THE SUPERVISION OF A LICENSED POLYSOMNOGRAPHIC TECHNOLOGIST AND A LICENSED PHYSICIAN.~~

~~[(e)] (G) “Licensed polysomnographic technologist” means a polysomnographic technologist who is licensed by the Board under this subtitle to practice polysomnography under the supervision of a licensed physician.~~

~~[(f)] (H) (1) “Practice polysomnography” means:~~

~~(i) Monitoring and recording physiologic data during sleep, including sleep-related respiratory disturbances under the supervision of a licensed physician; or~~

~~(ii) Using data collected under item (i) of this paragraph for the purposes of assisting a licensed physician in the diagnosis and treatment of sleep and wake disorders.~~

~~(2) “Practice polysomnography” includes:~~

~~(i) Providing polysomnography services that are safe, aseptic, preventive, and restorative;~~

~~(ii) Diagnosing and treating individuals who suffer from sleep disorders as a result of developmental defects, the aging process, physical injury, disease, or actual or anticipated somatic dysfunction;~~

~~(iii) Observing and monitoring physical signs and symptoms, general behavior, and general physical response to polysomnographic evaluation and determining whether initiation, modification, or discontinuation of a treatment regimen is warranted;~~

~~(iv) Using evaluation techniques that include limited cardiopulmonary function assessments, the need and effectiveness of therapeutic modalities and procedures, and the assessment and evaluation of the need for extended care; and~~

~~(v) Applying the use of techniques, equipment, and procedures involved in the evaluation of polysomnography, including:~~

~~1. Continuous positive airway pressure or bi-level positive airway pressure titration on spontaneously breathing patients;~~

~~2. Supplemental low flow oxygen therapy during polysomnogram;~~

~~3. Capnography during polysomnogram;~~

~~4. Cardiopulmonary resuscitation;~~

~~5. Pulse oximetry;~~

~~6. PH probe placement and monitoring;~~

~~7. Esophageal pressure;~~

~~8. Sleep staging including surface electroencephalography, surface electrooculography, and surface submental electromyography;~~

~~9. Surface electromyography of arms and legs;~~

~~10. Electrocardiography;~~

~~11. Respiratory effort including thoracic and abdominal;~~

~~12. Plethysmography blood flow;~~

~~13. Snore monitoring;~~

- ~~14. Audio or video monitoring;~~
- ~~15. Implementation of a written or verbal order from a licensed physician that requires the practice of polysomnography;~~
- ~~16. Monitoring the effects a nasal device, used to treat sleep apnea, has on sleep patterns provided that the device does not extend into the trachea; and~~
- ~~17. Monitoring the effects an oral device, used to treat sleep apnea, has on sleep patterns, provided that:~~
- ~~A. The device does not extend into the trachea;~~
 - ~~B. A dentist has evaluated the structures of the patient's oral and maxillofacial region for purposes of fitting;~~
 - ~~C. A dentist made or directed the making of the oral device; and~~
 - ~~D. A dentist directs the use of the oral device.~~

~~[(g)] (I) "Student" means an individual who, in accordance with section 14-5C-09(e) of this subtitle, is:~~

- ~~(1) Enrolled in an accredited educational program in order to qualify for a license under this title; and~~
- ~~(2) Performing polysomnography services within the accredited program under the supervision of a licensed physician and without compensation.~~

~~[(h)] (J) "Registered polysomnographic technologist" means a polysomnographic technologist who is registered by the Board of Registered Polysomnographic Technicians.~~

~~[(i)] (K) "Supervision" means general or direct supervision of:~~

- ~~(1) [a] A LICENSED POLYSOMNOGRAPHIC TECHNICIAN BY A licensed polysomnographic technologist [by] AND a licensed physician; OR~~
- ~~(2) A LICENSED POLYSOMNOGRAPHIC TECHNOLOGIST BY A LICENSED PHYSICIAN.~~

~~14-5C-04.~~

~~(a) (1) The Board shall set reasonable fees for the issuance of and renewal of licenses and other services it provides to polysomnographic technologists AND POLYSOMNOGRAPHIC TECHNICIANS.~~

~~(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to polysomnographic technologists AND POLYSOMNOGRAPHIC TECHNICIANS.~~

~~(b) (1) The Board shall pay all fees collected under the provisions of this subtitle to the Comptroller.~~

~~(2) The Comptroller shall distribute all fees to the Board.~~

~~(c) The fees shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this subtitle.~~

~~14-5C-07.~~

~~In addition to the powers set forth elsewhere in this subtitle, the Committee shall:~~

~~(1) Develop and recommend to the Board regulations to carry out the provisions of this subtitle;~~

~~(2) Develop and recommend to the Board a code of ethics for the practice of polysomnography for adoption by the Board;~~

~~(3) Develop and recommend to the Board standards of care for the practice of polysomnography;~~

~~(4) Develop and recommend to the Board the requirements for licensure as a polysomnographic technologist OR A POLYSOMNOGRAPHIC TECHNICIAN, including:~~

~~(i) Criteria for the educational and clinical training of licensed polysomnographic technologists AND POLYSOMNOGRAPHIC TECHNICIANS; and~~

~~(ii) Criteria for a professional competency examination and testing of applicants for a license to practice polysomnography;~~

~~(5) Develop and recommend to the Board criteria for licensed polysomnographic technologists who are licensed in other states to practice in this State;~~

~~(6) Evaluate the accreditation status of education programs in polysomnography for approval by the Board;~~

~~(7) Evaluate the credentials of applicants and recommend licensure of applicants who fulfill the requirements for a license to practice polysomnography;~~

~~(8) Develop and recommend to the Board continuing education requirements for license renewal;~~

~~(9) Provide the Board with recommendations concerning the practice of polysomnography;~~

~~(10) Develop and recommend to the Board criteria for the direction of students in clinical education programs by licensed POLYSOMNOGRAPHIC TECHNICIANS, polysomnographic technologists, and licensed physicians;~~

~~(11) Keep a record of its proceedings; and~~

~~(12) Submit an annual report to the Board.~~

~~14-5C-09.~~

~~(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.~~

~~(b) The applicant shall:~~

~~(1) Be of good moral character; and~~

~~(2) Be at least 18 years old.~~

~~(c) An applicant for a polysomnographic technologist license shall:~~

~~(1) Have passed the national certifying examination given by the Board of Registered Polysomnographic Technologists or another examination approved by the Board;~~

~~(2) Submit to the Board proof of certification as a registered polysomnographic technologist or other national certification approved by the Board;~~

~~(3) [(i) Have graduated from a polysomnographic educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs;~~

~~(ii) 1. Have graduated from a respiratory care educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; and~~

~~2. Have completed the Committee on Accreditation for Respiratory Care's curriculum for a polysomnography certificate that is accredited by the Commission on Accreditation of Allied Health Education Programs; or~~

~~(iii) 1. Have graduated from an electro-neuro diagnostic educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; and~~

~~2. Have completed additional units, modules, and courses of instruction focused on polysomnographic technology that are accredited by the Commission on Accreditation of Allied Health Education Programs.] MEET THE EDUCATION REQUIREMENTS:~~

~~(I) ESTABLISHED BY THE COMMITTEE AND APPROVED BY THE BOARD; OR~~

~~(II) ESTABLISHED BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS OR THE AMERICAN ACADEMY OF SLEEP MEDICINE AND APPROVED BY THE BOARD; and~~

~~(4) Meet any other educational or clinical requirements established by the Committee and approved by the Board.~~

~~(D) AN APPLICANT FOR A POLYSOMNOGRAPHIC TECHNICIAN LICENSE SHALL:~~

~~(1) QUALIFY TO TAKE OR HAVE PASSED THE NATIONAL EXAMINATION FOR CERTIFIED POLYSOMNOGRAPHIC TECHNICIANS GIVEN BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS;~~

~~(2) SUBMIT TO THE BOARD PROOF OF CERTIFICATION AS A CERTIFIED POLYSOMNOGRAPHIC TECHNICIAN OR OF ELIGIBILITY TO TAKE THE EXAMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND~~

~~(3) MEET ANY EDUCATIONAL OR CLINICAL REQUIREMENTS ESTABLISHED BY THE COMMITTEE AND APPROVED BY THE BOARD.~~

~~14-5C-10.1.~~

~~(A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE BOARD SHALL WAIVE THE EDUCATION REQUIREMENTS OF § 14-5C-09(C)(3) OF THIS SUBTITLE FOR AN APPLICANT FOR A POLYSOMNOGRAPHIC TECHNOLOGIST LICENSE WHO:~~

~~(1) RESIDES IN ANOTHER STATE;~~

~~(2) PASSED THE NATIONAL CERTIFYING EXAMINATION ADMINISTERED BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS; AND~~

~~(3) WAS CERTIFIED BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS AS A REGISTERED POLYSOMNOGRAPHIC TECHNOLOGIST ON OR BEFORE OCTOBER 1, 2011.~~

~~(B) THE BOARD SHALL GRANT A WAIVER UNDER THIS SECTION ONLY IF THE APPLICANT:~~

~~(1) IS OF GOOD MORAL CHARACTER;~~

~~(2) PAYS THE APPLICATION FEE REQUIRED BY THE BOARD UNDER § 14-5C-11 OF THIS SUBTITLE; AND~~

~~(3) PROVIDES ADEQUATE EVIDENCE OF MEETING THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.~~

~~14-5C-10.2.~~

~~AN APPLICANT WHO IS OTHERWISE QUALIFIED FOR A LICENSE UNDER § 14-5C-09(D) OF THIS SUBTITLE IS ENTITLED TO BE LICENSED FOR A SINGLE TERM DURING WHICH THE INDIVIDUAL IS REQUIRED TO WORK TOWARDS QUALIFYING FOR THE NATIONAL CERTIFYING EXAMINATION FOR REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS GIVEN BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS.~~

~~14-5C-13.~~

~~(a) (1) A license authorizes a polysomnographic technologist to practice polysomnography in this State while the license is effective.~~

~~(2) A LICENSE AUTHORIZES A POLYSOMNOGRAPHIC TECHNICIAN TO PRACTICE POLYSOMNOGRAPHY UNDER SUPERVISION IN THIS STATE WHILE THE LICENSE IS EFFECTIVE.~~

~~(b) A licensed polysomnographic technologist AND A LICENSED POLYSOMNOGRAPHIC TECHNICIAN may practice polysomnography in:~~

- ~~(1) A hospital sleep laboratory; or~~
- ~~(2) A stand-alone sleep center.~~

~~14-5C-14.~~

~~(a) A license expires on a date set by the Board, unless the license is renewed for an additional term as provided in this section.~~

~~(b) At least 1 month before a license expires, the Board shall send to the licensed polysomnographic technologist, by first class mail to the last known address of the licensed polysomnographic technologist, a renewal notice that states:~~

- ~~(1) The date on which the current license expires;~~
- ~~(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and~~
- ~~(3) The amount of the renewal fee.~~

~~(c) Except as otherwise provided in this subtitle, before a license expires, the licensed polysomnographic technologist periodically may renew it for an additional term, if the licensee:~~

- ~~(1) Otherwise is entitled to be licensed;~~
- ~~(2) Pays to the Board a renewal fee set by the Board; and~~
- ~~(3) Submits to the Board:~~
 - ~~(i) A renewal application on the form that the Board requires;~~
 - ~~(ii) Satisfactory evidence of compliance with any continuing education or competency requirements and other requirements set under this section for license renewal.~~

~~(d) In addition to any other qualifications and requirements established by the Board, the Board may establish continuing education or competency requirements as a condition of the renewal of a license under this section.~~

~~(e) (1) The Board shall renew the license of each [licensee] LICENSED POLYSOMNOGRAPHIC TECHNOLOGIST who meets the requirements of this section.~~

~~(2) THE BOARD MAY NOT RENEW THE LICENSE OF A LICENSED POLYSOMNOGRAPHIC TECHNICIAN.~~

~~(f) The Board shall reinstate the license of a polysomnographic technologist who has not placed the license on an inactive status and who has failed to renew the license for any reason if the polysomnographic technologist:~~

~~(1) Applies for reinstatement within 30 days after the date the license expires;~~

~~(2) Meets the renewal requirements of this section; and~~

~~(3) Pays to the Board the reinstatement fee set by the Board.~~

~~14-5C-16.~~

~~Unless the Board agrees to accept the surrender of a license, a licensed polysomnographic technologist OR POLYSOMNOGRAPHIC TECHNICIAN may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.~~

~~14-5C-18.~~

~~(a) Except as provided in subsections (b) and (d) of this section, hospitals, related institutions, alternative health systems as defined in § 1-401 of this article, and employers shall file with the Board a report that the hospital, related institution, alternative health system, or employer limited, reduced, otherwise changed, or terminated any licensed polysomnographic technologist OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN for any reason that might be grounds for disciplinary action under § 14-5C-17 of this subtitle.~~

~~(b) A hospital, related institution, alternative health system, or employer that has reason to know that a licensed polysomnographic technologist OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN has committed an action or has a condition that might be grounds for reprimand or probation of the licensed polysomnographic technologist OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN or suspension or revocation of the license because the licensed polysomnographic technologist OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN is alcohol impaired or drug impaired is not required to report the technologist OR TECHNICIAN to the Board if:~~

~~(1) The hospital, related institution, alternative health system, or employer knows that the licensed polysomnographic technologist OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN is:~~

~~(i) In an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or is certified by the Department; or~~

~~(ii) Under the care of a health care practitioner who is competent and capable of dealing with alcoholism and drug abuse; and~~

~~(2) (i) The hospital, related institution, alternative health system, or employer is able to verify that the licensed polysomnographic technologist OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN remains in the treatment program until discharge; and~~

~~(ii) The action or condition of the licensed polysomnographic technologist OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN has not caused injury to any person while the technologist OR TECHNICIAN is practicing as a licensed polysomnographic technologist OR A LICENSED POLYSOMNOGRAPHIC TECHNICIAN.~~

~~(e) (1) If the licensed polysomnographic technologist OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN enters, or is considering entering, an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or that is certified by the Department, the licensed polysomnographic technologist OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN shall notify the hospital, related institution, alternative health system, or employer of the licensed polysomnographic technologist's OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN'S decision to enter the treatment program.~~

~~(2) If the licensed polysomnographic technologist OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN fails to provide the notice required under paragraph (1) of this subsection, and the hospital, related institution, alternative health system, or employer learns that the licensed polysomnographic technologist OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN has entered a treatment program, the hospital, related institution, alternative health system, or employer shall report to the Board that the licensed polysomnographic technologist OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN has entered a treatment program and has failed to provide the required notice.~~

~~(3) If the licensed polysomnographic technologist OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN is found to be noncompliant with the treatment program's policies and procedures while in the treatment program, the treatment program shall notify the hospital, related institution, alternative health system, or employer of the licensed polysomnographic technologist's OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN'S noncompliance.~~

~~(4) On receipt of the notification required under paragraph (3) of this subsection, the hospital, related institution, alternative health system, or employer of~~

~~the licensed polysomnographic technologist OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN shall report the licensed polysomnographic technologist's OR LICENSED POLYSOMNOGRAPHIC TECHNICIAN'S noncompliance to the Board.~~

~~(d) A person is not required under this section to make any report that would be in violation of any federal or state law, rule, or regulation concerning the confidentiality of alcohol and drug abuse patient records.~~

~~(e) The hospital, related institution, alternative health system, or employer shall submit the report within 10 days of any action described in this section.~~

~~(f) A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board under this title.~~

~~(g) (1) The Board may impose a civil penalty of up to \$1,000 for failure to report under this section.~~

~~(2) The Board shall remit any penalty collected under this subsection into the General Fund of the State.~~

14-5C-08.

(a) Except as otherwise provided in this subtitle, on or after October 1, [2011] 2013, an individual shall be licensed by the Board before the individual may practice polysomnography in this State.

(b) This section does not apply to a student enrolled in an education program under § 14-5C-09(c)(3) of this subtitle while practicing polysomnography in that program.

14-5C-10.

(a) The Board shall waive the education requirement under § 14-5C-09(c)(3) of this subtitle if on or before September 30, [2011] 2013, an individual:

(1) Has passed the national certifying examination by the Board of Registered Polysomnographic Technologists;

(2) Is certified by the Board of Registered Polysomnographic Technologists as a registered polysomnographic technologist;

(3) Has submitted an application for licensure to the Board; and

(4) Meets all of the requirements under § 14-5C-09(b) and (c)(1) and (2) of this subtitle.

(b) (1) If an individual has not satisfied the requirements under subsection (a) of this section on or before September 30, [2011] 2013, the individual may petition the Board for an extension.

(2) The Board shall determine whether to grant an extension under this subsection on a case-by-case basis.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 10, 2011.