

45:14G-1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 244

NJSA: 45:14G-1 (“Polysomnography Practice Act”)

BILL NO: A2661/3755 (Substituted for S2279)

SPONSOR(S): Reed and others

DATE INTRODUCED: May 6, 2005

COMMITTEE: **ASSEMBLY:** Health and Human Services; Appropriations

SENATE:

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 20, 2005

SENATE: December 8, 2005

DATE OF APPROVAL: December 21, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Assembly Committee Substitute (1R) for A2661/3755 enacted)

A2661/3755

[SPONSOR'S STATEMENT \(A2661\)](#): (Begins on page 3 of original bill) [Yes](#)

[SPONSOR'S STATEMENT \(A3755\)](#): (Begins on page 10 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** Yes [5-2-2005 \(H & HS\)](#)
[6-9-2005 \(Approp\)](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL NOTE:](#) [Yes](#)

S2279

[SPONSOR'S STATEMENT:](#) (Begins on page 10 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL NOTE:](#) [Yes](#)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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No

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No

IS 11/28/07

Title 45.
Chapter 14G. (New)
Polysomnography
§§1-13 -
C.45:14G-1
to 45:14G-13
§18 - Note to §§1-17

P.L. 2005, CHAPTER 244, *approved December 21, 2005*
Assembly Committee Substitute (*First Reprint*) for
Assembly, Nos. 2661 and 3755

1 AN ACT concerning the licensure of polysomnographers,
2 supplementing Title 45 of the Revised Statutes and amending
3 various parts of the statutory law.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. (New section) This act shall be known and may be cited as the
9 "Polysomnography Practice Act."

10

11 2. (New section) The Legislature finds and declares that the
12 public interest requires the regulation of the practice of
13 polysomnographers and the establishment of clear licensure standards
14 for practitioners of polysomnography; and that the health and welfare
15 of the citizens of this State will be protected by identifying to the
16 public those individuals who are qualified and legally authorized to
17 practice polysomnography.

18

19 3. (New section) As used in this act:

20 "Board" means the State Board of Polysomnography established
21 pursuant to section 4 of this act.

22 "Director" means the Director of the Division of Consumer Affairs
23 in the Department of Law and Public Safety.

24 ¹"Direct supervision" means continuous on-site presence of a
25 supervising licensed polysomnographic technologist or supervising
26 licensed physician available to render immediate physical assistance as
27 required.¹

28 "Licensed physician" means a physician licensed by the State Board
29 of Medical Examiners.

30 "Polysomnography" means the allied health specialty involving the
31 treatment, management, diagnostic testing, research, control,
32 education and care of patients with sleep and wake disorders under a
33 qualified medical director and includes, but is not limited to, the
34 process of analysis, monitoring and recording of physiologic data

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted June 9, 2005.

1 during sleep and wakefulness to assess, diagnose and assist in the
2 treatment and research of disorders, syndromes and dysfunctions that
3 either are sleep related, manifest during sleep or disrupt normal sleep
4 and wake cycles and activities. Polysomnography shall also include
5 the therapeutic and diagnostic use of oxygen, ¹[non-invasive
6 ventilatory assistance of spontaneously breathing patients] the use of
7 positive airway pressure including CPAP and bi-level modalities¹,
8 cardiopulmonary resuscitation, maintenance of nasal and oral airways
9 that do not extend in the trachea, transcription and implementation of
10 the written or verbal orders of a physician pertaining to the practice of
11 polysomnography. ¹Polysomnography shall not include a home-based
12 unattended self-administered diagnostic test, provided that any test
13 results shall only be read and analyzed by a licensed polysomnographic
14 technologist or polysomnographic technician or a licensed physician.¹
15 Polysomnography services shall be provided only when ordered by a
16 physician who has medical responsibility for the patient.

17 "Polysomnographic technician" means a person who holds a
18 temporary license issued by the board who practices polysomnography
19 under the supervision of a licensed polysomnographic technologist or
20 a licensed physician ¹in a State licensed or nationally accredited sleep
21 center or laboratory¹.

22 "Polysomnographic technologist" means a person licensed by the
23 board to practice polysomnography under the direction of a licensed
24 physician.

25 "Polysomnographic trainee" means a person who holds a
26 provisional license issued by the board and who performs
27 polysomnography under the direct supervision of a licensed
28 polysomnographic technologist or a licensed physician ¹in a State
29 licensed or nationally accredited sleep center or laboratory¹.

30 "Qualified medical director" means the medical director of any in-
31 patient or out-patient polysomnography service, department or home
32 care agency. The qualified medical director shall be a licensed
33 physician who has special interest and knowledge in the diagnosis and
34 treatment of sleep and wake disorders and shall be qualified by special
35 training and experience in the management of sleep and wake
36 disorders.

37 ¹"Supervision" means that polysomnography shall not be
38 performed unless a licensed polysomnographic technologist or licensed
39 physician is constantly accessible, either on-site or through voice
40 communication.¹

41
42 4. (New section) a. There is created within the Division of
43 Consumer Affairs in the Department of Law and Public Safety the
44 State Board of Polysomnography. The board shall consist of 11
45 members who are residents of the State, six of whom shall be licensed
46 polysomnographic technologists who have been actively engaged in

1 the practice of polysomnography in this State for at least five years
2 immediately preceding their appointment, one of whom shall be a
3 qualified medical director, one of whom shall be a physician licensed
4 in this State pursuant to chapter 9 of Title 45 of the Revised Statutes
5 and who is a Diplomate of the American Board of Sleep Medicine ¹or
6 is board certified in sleep medicine¹, two of whom shall be public
7 members and one of whom shall be a State executive department
8 member appointed pursuant to the provisions of P.L.1971, c.60
9 (C.45:1-2.1 et seq.). At the time of their appointment the six
10 polysomnographic technologists initially appointed shall have been
11 actively working as polysomnographic technologists and shall have
12 been certified by the Board of Registered Polysomnographic
13 Technologists for at least five years, but need not be licensed in this
14 State.

15 b. The Governor shall appoint each member, other than the State
16 executive department member, with the advice and consent of the
17 Senate. The Governor shall appoint each member for a term of three
18 years, except that of the polysomnographic practitioner members first
19 appointed, two shall serve for terms of three years, two shall serve for
20 terms of two years and two shall serve for a term of one year. Each
21 member shall hold office until his successor has been appointed and
22 qualified. Any vacancy in the membership of the board shall be filled
23 for the unexpired term only in the manner provided for the original
24 appointment.

25
26 5. (New section) Members of the board shall be compensated and
27 reimbursed for expenses and provided with office and meeting facilities
28 pursuant to section 2 of P.L.1977, c.285 (C.45:1-2.5).

29
30 6. (New section) The board shall annually elect from among its
31 members a chairman and a vice-chairman. The board shall meet at
32 least four times per year and may hold additional meetings as
33 necessary to discharge its duties. The board shall organize itself
34 following the appointment of at least that number of members of the
35 board constituting a quorum of the entire board, provided that at least
36 a majority of the members appointed are polysomnographic
37 technologists.

38
39 7. (New section) The board shall:

40 a. Establish criteria and standards for licensure ¹[in accordance]
41 at least commensurate¹ with national accreditation standards adopted
42 by the Association of Polysomnographic Technologists ¹or the
43 American Academy of Sleep Medicine or the Committee on
44 Accreditation for Polysomnography ¹;

45 b. Review the qualification of applicants for licensure;

46 c. Insure proper conduct and standards of practice;

- 1 d. Issue and renew licenses pursuant to this act;
2 e. Establish standards for continuing education;
3 f. Suspend, revoke or decline to renew licenses of
4 polysomnographic technologists, technicians and trainees pursuant to
5 the provisions of P.L.1978, c.73 (C.45:1-14 eq seq.);
6 g. Maintain a record of every polysomnographic technologist,
7 technician and trainee licensed in this State;
8 h. Promulgate rules and regulations pursuant to the
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.), to carry out the provisions of this act, except that the initial
11 rules and regulations may be promulgated by the director; and
12 i. Establish fees for applications for licensure, examinations, initial
13 licensure, renewals, late renewals, temporary licenses, provisional
14 licenses and for duplication of lost licenses, pursuant to section 2 of
15 P.L.1974, c.46 (C.45:1-3.2).

16
17 8. (New section) The Executive Director of the board shall be
18 appointed by the director and shall serve at the director's pleasure.
19 The salary of the Executive Director shall be determined by the
20 director within the limits of available funds. The director shall be
21 empowered within the limits of available funds to hire any assistants
22 as are necessary to administer this act.

23
24 9. (New section) a. No person shall practice or present himself
25 as able to practice polysomnography in this State unless the person
26 possesses a valid license to practice polysomnography in accordance
27 with the provisions of this act.

28 b. Nothing in this act shall be construed to:

29 (1) prohibit a person enrolled in a ¹[bona fide] board approved
30 Commission on Accreditation of Allied Health Education Programs¹
31 polysomnography training program from performing those duties
32 essential for completion of ¹[a trainee's]¹ clinical service, provided the
33 duties are performed under the ¹direct¹ supervision and direction of a
34 physician or licensed polysomnographic technologist; or

35 (2) limit, preclude or otherwise interfere with the practices of
36 other persons and health care providers licensed by appropriate
37 agencies of this State, provided that those duties are consistent with
38 the accepted standards of the person's profession and that the person
39 does not present himself as a licensed polysomnographic technologist,
40 licensed polysomnographic technician or licensed polysomnographic
41 trainee which otherwise would require licensure by the board.

42 ¹c. Nothing in this act shall confer to a person licensed to practice
43 polysomnography pursuant to this act the authority to practice as
44 another health care professional as defined in section 1 of P.L. 2002,
45 c. 104 (C. 45:1-28).¹

1 10. (New section) a. The board shall issue a license as a
2 polysomnographic technologist to any applicant who the board
3 determines to be qualified to perform the duties of a polysomnographic
4 technologist. In making a determination, the board shall review
5 evidence that the applicant has successfully completed the board's
6 requirements for education; training; and experience, with documented
7 proficiencies, determined using standards established by the board ¹at
8 least commensurate with national Association of Polysomnographic
9 Technologists or American Academy of Sleep Medicine standards¹;
10 and has successfully completed the certification examination
11 administered by the Board of Registered Polysomnographic
12 Technologists or its successor, or any other examination testing
13 polysomnography approved by the board. The fee prescribed by the
14 board shall accompany the application.

15 b. The board shall issue a temporary license as a
16 polysomnographic technician to any applicant who the board
17 determines to be qualified to perform the duties of a polysomnographic
18 technician. In making a determination, the board shall review evidence
19 that the applicant has successfully completed the board's requirements
20 for education; training; and experience, ¹[with documented
21 proficiencies,]¹ determined using standards established by the board
22 ¹at least commensurate with national Association of Polysomnographic
23 Technologists or American Academy of Sleep Medicine standards and
24 documentation of successful completion of Association of
25 Polysomnographic Technologists or American Academy of Sleep
26 Medicine technical competencies¹. The fee prescribed by the board
27 shall accompany the application.

28 c. The board shall issue a provisional license as a
29 polysomnographic trainee to any applicant who the board determines
30 to be qualified to perform the duties of a polysomnographic trainee.
31 In making a determination, the board shall review evidence that the
32 applicant has successfully completed the board's requirements for
33 education; training; and experience, with documented proficiencies,
34 determined using standards established by the board ¹at least
35 commensurate with national Association of Polysomnographic
36 Technologists or American Academy of Sleep Medicine standards¹;
37 and documentation that the applicant's performance of
38 polysomnography will be directly supervised by a licensed
39 polysomnographic technologist or a licensed physician. The fee
40 prescribed by the board shall accompany the application.

41
42 11. (New section) a. A license as a polysomnographic
43 technologist shall be issued for a period of two years, and may be
44 renewed for additional two year periods upon submission by the holder
45 of a renewal application on a form prescribed by the board, completion
46 by the holder of any requirements for renewal established by the board,

1 and payment of the renewal fee prescribed by the board.

2 b. A temporary license as a polysomnographic technician shall be
3 issued for a period of one year and may be renewed for an additional
4 one year period to permit a polysomnographic technician to take the
5 examination required for licensure as a polysomnographic technologist
6 a maximum of three times. Renewal of a temporary license shall be
7 issued upon submission by the holder of a renewal application on a
8 form prescribed by the board, completion by the holder of any
9 requirements for renewal established by the board, and payment of the
10 renewal fee prescribed by the board.

11 c. A provisional license as a polysomnographic trainee shall be
12 issued for a period of not more than one year.

13 d. A temporary or provisional license may be put on inactive
14 status at the discretion of the board upon the written request of the
15 holder for reasons of hardship, such as health or other good cause.

16 e. If a renewal fee is not paid by the expiration date, the license
17 shall automatically expire, but may be renewed within two years of its
18 expiration date on payment to the board of a sum determined by it for
19 each year or part thereof during which the license was expired and an
20 additional restoration fee.

21

22 12. (New section) Upon receipt of a fee and a written application
23 on forms provided by it, the board shall issue a license without
24 examination to a polysomnographic technologist who holds a valid
25 license issued by another state or possession of the United States or
26 the District of Columbia that has education and experience
27 requirements substantially equivalent to the requirements of this act,
28 so long as the applicant has successfully completed ¹the certification
29 examination administered by¹ the Board of Registered
30 Polysomnographic Technologists ¹ [examination required by section
31 10 of this act] , or its successor,¹ or any other examination testing
32 polysomnography approved by the board ¹pursuant to section 10 of
33 this act¹.

34

35 13. (New section) a. The board shall issue a license as a
36 polysomnographic technologist to an applicant, who at the time of the
37 effective date of this act, has passed the certification examination
38 administered by the Board of Registered Polysomnographic
39 Technologists and holds a valid credential.

40 b. (1) The board shall issue a temporary license to continue
41 practice as a polysomnographic technician for a period of two years
42 from the effective date of section 9 of this act to any applicant who has
43 not passed the certification examination required by subsection a. of
44 this section at the time of the effective date of section 9 of this act,
45 provided that the applicant, ¹[who]¹ through written evidence,
46 verified by oath, demonstrates that he:

1 (a) is presently functioning in the capacity of a polysomnographic
2 technician as defined by this act and has successfully completed a
3 polysomnographic program of not less than one year associated with
4 a state licensed program or a program accredited by the Commission
5 on Accreditation of Allied Health Education Programs or other
6 nationally recognized accrediting organization; or

7 (b) has successfully completed a minimum of 720 hours of
8 experience as a polysomnographic trainee or has a minimum of one
9 year of experience as a polysomnographic technician with documented
10 proficiency in polysomnography as determined using standardized
11 Association of Polysomnographic Technologists ¹or American
12 Academy of Sleep Medicine¹ National Competencies.

13 (2) An applicant who receives a temporary license pursuant to this
14 subsection shall be required to pass the licensure examination
15 ¹[required by the board] administered by the Board of Registered
16 Polysomnographic Technologists, or its successor,¹ and attain the
17 RPSGT credential during his temporary licensure period in order to be
18 issued a license as a polysomnographic technologist.

19 c. An applicant for licensure under this section shall apply within
20 six months of the effective date of section 9 of this act.

21
22 14. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read
23 as follows:

24 1. The provisions of this act shall apply to the following boards
25 and commissions: the New Jersey State Board of Accountancy, the
26 New Jersey State Board of Architects, the New Jersey State Board of
27 Cosmetology and Hairstyling, the Board of Examiners of Electrical
28 Contractors, the New Jersey State Board of Dentistry, the State Board
29 of Mortuary Science of New Jersey, the State Board of Professional
30 Engineers and Land Surveyors, the State Board of Marriage and
31 Family Therapy Examiners, the State Board of Medical Examiners, the
32 New Jersey Board of Nursing, the New Jersey State Board of
33 Optometrists, the State Board of Examiners of Ophthalmic Dispensers
34 and Ophthalmic Technicians, the Board of Pharmacy, the State Board
35 of Professional Planners, the State Board of Psychological Examiners,
36 the State Board of Examiners of Master Plumbers, the New Jersey
37 Real Estate Commission, the State Board of Shorthand Reporting, the
38 State Board of Veterinary Medical Examiners, the Radiologic
39 Technology Board of Examiners, the Acupuncture Examining Board,
40 the State Board of Chiropractic Examiners, the State Board of
41 Respiratory Care, the State Real Estate Appraiser Board, the State
42 Board of Social Work Examiners, [the State Board of Public Movers
43 and Warehousemen, and] the State Board of Physical Therapy
44 Examiners, the Orthotics and Prosthetics Board of Examiners, the
45 New Jersey Cemetery Board, the State Board of Polysomnography and
46 any other entity hereafter created under Title 45 to license or

1 otherwise regulate a profession or occupation.

2 (cf: P.L.2003, c.18, s.18)

3

4 15. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read
5 as follows:

6 1. The provisions of this act shall apply to the following boards
7 and commissions: the New Jersey State Board of Accountancy, the
8 New Jersey State Board of Architects, the New Jersey State Board of
9 Cosmetology and Hairstyling, the Board of Examiners of Electrical
10 Contractors, the New Jersey State Board of Dentistry, the State Board
11 of Mortuary Science of New Jersey, the State Board of Professional
12 Engineers and Land Surveyors, the State Board of Marriage and
13 Family Therapy Examiners, the State Board of Medical Examiners, the
14 New Jersey Board of Nursing, the New Jersey State Board of
15 Optometrists, the State Board of Examiners of Ophthalmic Dispensers
16 and Ophthalmic Technicians, the Board of Pharmacy, the State Board
17 of Professional Planners, the State Board of Psychological Examiners,
18 the State Board of Examiners of Master Plumbers, the State Board of
19 Shorthand Reporting, the State Board of Veterinary Medical
20 Examiners, the Radiologic Technology Board of Examiners, the
21 Acupuncture Examining Board, the State Board of Chiropractic
22 Examiners, the State Board of Respiratory Care, the State Real Estate
23 Appraiser Board, the New Jersey Cemetery Board, the State Board
24 of Social Work Examiners, [and] the State Board of Physical Therapy
25 Examiners, the State Board of Polysomnography, the Orthotics and
26 Prosthetics Board of Examiners and any other entity hereafter created
27 under Title 45 to license or otherwise regulate a profession or
28 occupation.

29 (cf: P.L.2003, c.261, s.39)

30

31 16. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read
32 as follows:

33 2. The provisions of this act shall apply to the following boards
34 and all professions or occupations regulated by, through or with the
35 advice of those boards: the New Jersey State Board of Accountancy,
36 the New Jersey State Board of Architects, the New Jersey State Board
37 of Cosmetology and Hairstyling, the Board of Examiners of Electrical
38 Contractors, the New Jersey State Board of Dentistry, the State Board
39 of Mortuary Science of New Jersey, the State Board of Professional
40 Engineers and Land Surveyors, the State Board of Marriage and
41 Family Therapy Examiners, the State Board of Medical Examiners, the
42 New Jersey Board of Nursing, the New Jersey State Board of
43 Optometrists, the State Board of Examiners of Ophthalmic Dispensers
44 and Ophthalmic Technicians, the Board of Pharmacy, the State Board
45 of Professional Planners, the State Board of Psychological Examiners,
46 the State Board of Examiners of Master Plumbers, the State Board of

1 Shorthand Reporting, the State Board of Veterinary Medical
2 Examiners, [the Acupuncture Examining Board,] the State Board of
3 Chiropractic Examiners, the State Board of Respiratory Care, the
4 State Real Estate Appraiser Board, the State Board of Social Work
5 Examiners, the State Board of Physical Therapy Examiners, the State
6 Board of Polysomnography, the Professional Counselor Examiners
7 Committee, the New Jersey Cemetery Board, the Orthotics and
8 Prosthetics Board of Examiners, the Occupational Therapy Advisory
9 Council, the Electrologists Advisory Committee, the Acupuncture
10 Advisory Committee, the Alcohol and Drug Counselor Committee, the
11 Athletic Training Advisory Committee, the Certified Psychoanalysts
12 Advisory Committee, the Fire Alarm, Burglar Alarm, and Locksmith
13 Advisory Committee, the Home Inspection Advisory Committee, the
14 Interior Design Examination and Evaluation Committee, the Hearing
15 Aid Dispensers Examining Committee, the Landscape Architect
16 Examination and Evaluation Committee, the Massage, Bodywork and
17 Somatic Therapy Examining Committee, the Perfusionists Advisory
18 Committee, the Physician Assistant Advisory Committee, [and] the
19 Audiology and Speech-Language Pathology Advisory Committee and
20 any other entity hereafter created under Title 45 to license or
21 otherwise regulate a profession or occupation.

22 (cf: P.L.2003, c.18, s.20)

23

24 17. Section 1 of P.L.2002, c.104 (C.45:1-28) is amended to read
25 as follows:

26 1. As used in this act:

27 "Applicant" means an applicant for the licensure or other
28 authorization to engage in a health care profession.

29 "Board" means a professional and occupational licensing board
30 within the Division of Consumer Affairs in the Department of Law and
31 Public Safety.

32 "Director" means the Director of the Division of Consumer Affairs
33 in the Department of Law and Public Safety.

34 "Division" means the Division of Consumer Affairs in the
35 Department of Law and Public Safety.

36 "Health care professional" means a health care professional who is
37 licensed or otherwise authorized, pursuant to Title 45 or Title 52 of
38 the Revised Statutes, to practice a health care profession that is
39 regulated by one of the following boards or by the Director of the
40 Division of Consumer Affairs: the State Board of Medical Examiners,
41 the New Jersey Board of Nursing, the New Jersey State Board of
42 Dentistry, the New Jersey State Board of Optometrists, the ¹New
43 Jersey State¹ Board of Pharmacy ¹[of the State of New Jersey]¹, the
44 State Board of Chiropractic Examiners, the Acupuncture Examining
45 Board, the State Board of Physical Therapy, the State Board of
46 Respiratory Care, the Orthotics and Prosthetics Board of Examiners,

1 the State Board of Psychological Examiners, the State Board of Social
2 Work Examiners, the State Board of Veterinary Medical Examiners,
3 the State Board of Examiners of Ophthalmic Dispensers and
4 Ophthalmic Technicians, the Audiology and Speech-Language
5 Pathology Advisory Committee, the State Board of Marriage and
6 Family Therapy Examiners, the Occupational Therapy Advisory
7 Council [or], the Certified Psychoanalysts Advisory Committee or the
8 State Board of Polysomnography.

9 Health care professional shall not include a nurse aide or personal
10 care assistant who is required to undergo a criminal history record
11 background check pursuant to section 2 of P.L.1997, c.100 (C.26:2H-
12 83) or a homemaker-home health aide who is required to undergo a
13 criminal history record background check pursuant to section 7 of
14 P.L.1997, c.100 (C.45:11-24.3).

15 ¹"Licensee" means an individual who has been issued a license or
16 other authorization to practice a health care profession.¹

17 (cf: P.L.2005, c.83, s.5)

18

19 18. This act shall take effect immediately, except that section 9
20 shall take effect 360 days following the appointment and qualification
21 of the board members, and provided that the director and board may
22 take such anticipatory action as may be necessary to effectuate that
23 provision of the act.

24

25

26

27

28 "Polysomnography Practice Act."

ASSEMBLY, No. 2661

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MAY 6, 2004

Sponsored by:
Assemblyman REED GUSCIORA
District 15 (Mercer)

SYNOPSIS

Provides that practice of polysomnography shall not be considered practice of respiratory care.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the practice of polysomnography and
2 supplementing P.L.1991, c.31 (C.45:14E-1 et seq.).

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. a. The provisions of P.L.1991, c.31 (C.45:14E-1 et seq.) shall
8 not be construed to limit or preclude the practice of a registered
9 polysomnographic technologist or a polysomnographic technician or
10 trainee, while performing the tasks listed in subsection b. of this
11 section during the monitoring, diagnosis, therapeutic intervention and
12 research of sleep and waking disorders under the general supervision
13 of a physician licensed in this State.

14 b. The tasks of a registered polysomnographic technologist or a
15 polysomnographic technician or trainee may include:

16 (1) application and titration of non-invasive, bi-level or continuous
17 positive airway pressure devices in spontaneously breathing patients;

18 (2) application and titration of supplemental low flow oxygen,
19 including use of air and oxygen administering apparatus;

20 (3) application and monitoring of pulse oximetry and capnometry;

21 (4) testing techniques to assist in diagnosis, monitoring, treatment,
22 management and research of sleep and waking disorders, including,
23 but not limited to, the measurement of cardio-respiratory volumes,
24 pressure and flow for the diagnosis, therapeutic intervention and
25 research of sleep and waking disorders; and

26 (5) patient education and ongoing management of the use and
27 compliance of bi-level or continuous positive airway pressure devices
28 and interfaces.

29 c. As used in this section:

30 (1) "Polysomnographic technician" means an allied health
31 professional who works under the general supervision of a
32 polysomnographic technologist or physician. A technician shall have:
33 (a) successfully completed an accredited educational program leading
34 to an associate degree with an emphasis in polysomnography, or a
35 polysomnography program of at least one year's duration that is
36 associated with a State licensed or nationally accredited educational
37 facility; or (b) a minimum of six months of experience as a
38 polysomnographic trainee with documented proficiency in all required
39 competencies.

40 (2) "Polysomnographic trainee" means an allied health professional
41 who works under direct supervision of a polysomnographic
42 technologist or technician. A trainee shall: (a) have a high school
43 diploma or a general equivalency diploma and six months of direct
44 patient care experience, or one year of post-secondary education; or
45 (b) be currently enrolled in an accredited educational program leading

1 to an associate degree with an emphasis in polysomnography, or a
2 polysomnography program of at least one year's duration that is
3 associated with a State licensed or nationally accredited educational
4 facility.

5 (3) "Polysomnography" means the generation of recordings during
6 the sleep/wake cycle, which serves as the central component of many
7 sleep research studies and clinical evaluations, and these recordings,
8 known as polysomnograms, provide a continuous display of multiple
9 aspects of the patient's physiology.

10 (4) "Registered polysomnographic technologist" means an allied
11 health professional who works under the general supervision of a
12 physician. A registered polysomnographic technologist shall: have
13 successfully completed an accredited educational program leading to
14 an associate degree, with an emphasis in polysomnography, or a
15 polysomnography program of at least one year's duration that is
16 associated with a State licensed or nationally accredited educational
17 facility, or have equivalent experience and documented proficiency at
18 all competencies required of a polysomnographic technician; and be
19 certified by the Board of Registered Polysomnographic Technologists
20 as a Registered Polysomnographic Technologist, or its equivalent.

21

22 2. This act shall take effect on the 30th day after enactment.

23

24

25

STATEMENT

26

27 This bill provides that the practice of a registered polysomnographic
28 technologist (RPSGT) or a polysomnographic technician or trainee,
29 during the monitoring, diagnosis, therapeutic intervention,
30 management and research of sleep and waking disorders under the
31 general supervision of a physician licensed in this State, shall not be
32 limited by or precluded under the "Respiratory Care Practitioner
33 Licensing Act."

34 "Polysomnography" is defined as the generation of recordings
35 during the sleep/wake cycle, which serves as the central component of
36 many sleep research studies and clinical evaluations, and these
37 recordings, known as polysomnograms, provide a continuous display
38 of multiple aspects of the patient's physiology.

ASSEMBLY, No. 3755

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED FEBRUARY 7, 2005

Sponsored by:

Assemblyman RONALD S. DANCER

District 30 (Burlington, Mercer, Monmouth and Ocean)

SYNOPSIS

"Polysomnography Practice Act."

CURRENT VERSION OF TEXT

As introduced.



A3755 DANCER

2

1 AN ACT concerning the licensure of polysomnographers,
2 supplementing Title 45 of the Revised Statutes and amending
3 various parts of the statutory law.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. (New section) This act shall be known and may be cited as the
9 "Polysomnography Practice Act."

10

11 2. (New section) The Legislature finds and declares that the public
12 interest requires the regulation of the practice of polysomnographers
13 and the establishment of clear licensure standards for practitioners of
14 polysomnography; and that the health and welfare of the citizens of
15 this State will be protected by identifying to the public those
16 individuals who are qualified and legally authorized to practice
17 polysomnography.

18

19 3. (New section) As used in this act:

20 "Board" means the State Board of Polysomnography established
21 pursuant to section 4 of this act.

22 "Director" means the Director of the Division of Consumer Affairs
23 in the Department of Law and Public Safety.

24 "Licensed physician" means a physician licensed by the State Board
25 of Medical Examiners.

26 "Polysomnography" means the allied health specialty involving the
27 treatment, management, diagnostic testing, research, control,
28 education and care of patients with sleep and wake disorders under a
29 qualified medical director and includes but is not limited to the process
30 of analysis, monitoring and recording of physiologic data during sleep
31 and wakefulness to assess, diagnose and assist in the treatment and
32 research of disorders, syndromes and dysfunctions that either are sleep
33 related, manifest during sleep or disrupt normal sleep and wake cycles
34 and activities. Polysomnography shall also include the therapeutic and
35 diagnostic use of oxygen, non-invasive ventilatory assistance of
36 spontaneously breathing patients, cardiopulmonary resuscitation,
37 maintenance of nasal and oral airways that do not extend in the
38 trachea, transcription and implementation of the written or verbal
39 orders of a physician pertaining to the practice of polysomnography.
40 Polysomnography services shall be provided only when ordered by a
41 physician who has medical responsibility for the patient.

42 "Polysomnographic technician" means a person who holds a
43 temporary license issued by the board who practices polysomnography

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 under the supervision of a licensed polysomnographic technologist or
2 a licensed physician.

3 "Polysomnographic technologist" means a person licensed by the
4 board to practice polysomnography under the direction of a licensed
5 physician.

6 "Polysomnographic trainee" means a person who holds a
7 provisional license issued by the board and who performs
8 polysomnography under the direct supervision of a licensed
9 polysomnographic technologist or a licensed physician.

10 "Qualified medical director" means the medical director of any in-
11 patient or out-patient polysomnography service, department or home
12 care agency. The qualified medical director shall be a licensed
13 physician who has special interest and knowledge in the diagnosis and
14 treatment of sleep and wake disorders and shall be qualified by special
15 training and experience in the management of sleep and wake
16 disorders.

17

18 4. (New section) a. There is created within the Division of
19 Consumer Affairs in the Department of Law and Public Safety the
20 State Board of Polysomnography. The board shall consist of 11
21 members who are residents of the State, six of whom shall be licensed
22 polysomnographic technologists who have been actively engaged in
23 the practice of polysomnography in this State for at least five years
24 immediately preceding their appointment, one of whom shall be a
25 qualified medical director, one of whom shall be a physician licensed
26 in this State pursuant to chapter 9 of Title 45 of the Revised Statutes
27 and who is a Diplomate of the American Board of Sleep Medicine, two
28 of whom shall be public members and one of whom shall be a State
29 executive department member appointed pursuant to the provisions of
30 P.L.1972, c.60 (C.45:1-2.1 et seq.). At the time of their appointment
31 the six polysomnographic technologists initially appointed shall have
32 been actively working as polysomnographic technologists and shall
33 have been certified by the Board of Registered Polysomnographic
34 Technologists for at least five years, but need not be licensed in this
35 State.

36 b. The Governor shall appoint each member, other than the State
37 executive department member, with the advice and consent of the
38 Senate. The Governor shall appoint each member for a term of three
39 years, except that of the polysomnographic practitioner members first
40 appointed, two shall serve for terms of three years, two shall serve for
41 terms of two years and two shall serve for a term of one year. Each
42 member shall hold office until his successor has been appointed and
43 qualified. Any vacancy in the membership of the board shall be filled
44 for the unexpired term only in the manner provided for the original
45 appointment.

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1 5. (New section) Members of the board shall be compensated and
2 reimbursed for expenses and provided with office and meeting facilities
3 pursuant to section 2 of P.L.1977, c.285 (C.45:1-2.5).

4
5 6. (New section) The board shall annually elect from among its
6 members a chairman and a vice-chairman. The board shall meet at
7 least four times per year and may hold additional meetings as
8 necessary to discharge its duties. The board shall organize itself
9 following the appointment of at least that number of members of the
10 board constituting a quorum of the entire board, provided that at least
11 a majority of the members appointed are polysomnographic
12 technologists.

13
14 7. (New section) The board shall:
15 a. Establish criteria and standards for licensure;
16 b. Review the qualification of applicants for licensure;
17 c. Insure proper conduct and standards of practice;
18 d. Issue and renew licenses pursuant to this act;
19 e. Establish standards for continuing education;
20 f. Suspend, revoke or decline to renew licenses of
21 polysomnographic technologists, technicians and trainees pursuant to
22 the provisions of P.L.1978, c.73 (C.45:1-14 eq seq.);
23 g. Maintain a record of every polysomnographic technologist,
24 technician and trainee licensed in this State;
25 h. Promulgate rules and regulations pursuant to the
26 "Administrative Procedure Act;" P.L.1968, c.410 (C.52:14B-1 et seq.)
27 to carry out the provisions of this act, except that the initial rules and
28 regulations may be promulgated by the director; and
29 i. Establish fees for applications for licensure, examinations, initial
30 licensure, renewals, late renewals, temporary licenses, provisional
31 licenses and for duplication of lost licenses, pursuant to section 2 of
32 P.L.1974, c.46 (C.45:1-3.2).

33
34 8. (New section) The Executive Director of the board shall be
35 appointed by the director and shall serve at the director's pleasure.
36 The salary of the Executive Director shall be determined by the
37 director within the limits of available funds. The director shall be
38 empowered within the limits of available funds to hire any assistants
39 as are necessary to administer this act.

40
41 9. (New section) a. No person shall practice or present himself as
42 able to practice polysomnography in this State unless the person
43 possesses a valid license to practice polysomnography in accordance
44 with the provisions of this act.

45 b. Nothing in this act shall be construed to:
46 (1) prohibit a person enrolled in a bona fide polysomnography

1 training program from performing those duties essential for completion
2 of a trainee's clinical service, provided the duties are performed under
3 the supervision and direction of a physician or licensed
4 polysomnographic technologist; or

5 (2) limit, preclude or otherwise interfere with the practices of other
6 persons and health care providers licensed by appropriate agencies of
7 this State, provided that those duties are consistent with the accepted
8 standards of the person's profession and that the person does not
9 present himself or herself as a licensed polysomnographic technologist,
10 licensed polysomnographic technician or licensed polysomnographic
11 trainee which otherwise would require licensure by the board.

12

13 10. (New section) a. The board shall issue a license as a
14 polysomnographic technologist to any applicant who the board
15 determines to be qualified to perform the duties of a polysomnographic
16 technologist. In making a determination, the board shall review
17 evidence that the applicant has successfully completed the board's
18 requirements for education; training; and experience, with documented
19 proficiencies, determined using standards established by the board; and
20 has successfully completed the certification examination administered
21 by the Board of Registered Polysomnographic Technologists or its
22 successor, or any other examination testing polysomnography
23 approved by the board. The fee prescribed by the board shall
24 accompany the application.

25 b. The board shall issue a temporary license as a polysomnographic
26 technician to any applicant who the board determines to be qualified
27 to perform the duties of a polysomnographic technician. In making a
28 determination, the board shall review evidence that the applicant has
29 successfully completed the board's requirements for education;
30 training; and experience, with documented proficiencies, determined
31 using standards established by the board. The fee prescribed by the
32 board shall accompany the application.

33 c. The board shall issue a provisional license as a
34 polysomnographic trainee to any applicant who the board determines
35 to be qualified to perform the duties of a polysomnographic trainee.
36 In making a determination, the board shall review evidence that the
37 applicant has successfully completed the board's requirements for
38 education; training; and experience with documented proficiencies,
39 determined using standards established by the board; and
40 documentation that the applicant's performance of polysomnography
41 will be directly supervised by a licensed polysomnographic
42 technologist or a licensed physician. The fee prescribed by the board
43 shall accompany the application.

44

45 11. (New section) a. A license as a polysomnographic
46 technologist shall be issued for a period of two years, and may be

1 renewed for additional two year periods upon submission by the holder
2 of a renewal application on a form prescribed by the board, completion
3 by the holder of any requirements for renewal established by the board,
4 and payment of the renewal fee prescribed by the board.

5 b. A temporary license as a polysomnographic technician shall be
6 issued for a period of one year and may be renewed for an additional
7 one year period to permit a polysomnographic technician to take the
8 examination required for licensure as a polysomnographic technologist
9 a maximum of three times. Renewal of a temporary license shall be
10 issued upon submission by the holder of a renewal application on a
11 form prescribed by the board, completion by the holder of any
12 requirements for renewal established by the board, and payment of the
13 renewal fee prescribed by the board.

14 c. A provisional license as a polysomnographic trainee shall be
15 issued for a period of not more than one year.

16 d. A temporary or provisional license may be put on inactive status
17 at the discretion of the board upon the written request of the holder
18 for reasons of hardship, such as health or other good cause.

19 e. If a renewal fee is not paid by the expiration date, the license
20 shall automatically expire, but may be renewed within two years of its
21 expiration date on payment to the board of a sum determined by it for
22 each year or part thereof during which the license was expired and an
23 additional restoration fee.

24
25 12. (New section) Upon receipt of a fee and a written application
26 on forms provided by it, the board shall issue a license without
27 examination to a polysomnographic technologist who holds a valid
28 license issued by another state or possession of the United States or
29 the District of Columbia that has education and experience
30 requirements substantially equivalent to the requirements of this act,
31 so long as the applicant has successfully completed the Board of
32 Registered Polysomnographic Technologist examination required by
33 section 10 of this act or any other examination testing
34 polysomnography approved by the board.

35
36 13. (New section) a. The board shall issue a license as a
37 polysomnographic technologist to an applicant, who at the time of the
38 effective date of this act, has passed the certification examination
39 administered by the Board of Registered Polysomnographic
40 Technologists and holds a valid credential.

41 b. (1) The board shall issue a temporary license to continue
42 practice as a polysomnographic technician for a period of two years
43 from the effective date of section 9 of this act to any applicant who has
44 not passed the certification examination required by subsection a. at
45 the time of the effective date of section 9 of this act, provided that the
46 applicant, who through written evidence, verified by oath,

1 demonstrates that he:

2 (a) is presently functioning in the capacity of a polysomnographic
3 technician as defined by this act and has successfully completed a
4 polysomnographic program of not less than one year associated with
5 a state licensed program or a program accredited by the Commission
6 on Accreditation of Allied Health Education Programs or other
7 nationally recognized accrediting organization; or

8 (b) has successfully completed a minimum of 720 hours of
9 experience as a polysomnographic trainee or has a minimum of one
10 year of experience as a polysomnographic technician with documented
11 proficiency in polysomnography as determined using standardized
12 Association of Polysomnographic Technologists National
13 Competencies.

14 (2) An applicant who receives a temporary license pursuant to this
15 subsection shall be required to pass the licensure examination required
16 by the board and attain the RPSGT credential during his temporary
17 licensure period in order to be issued a license as a polysomnographic
18 technologist.

19 c. An applicant for licensure under this section shall apply within
20 six months of the effective date of section 9. of the act.

21

22 14. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read as
23 follows:

24 1. The provisions of this act shall apply to the following boards and
25 commissions: the New Jersey State Board of Accountancy, the New
26 Jersey State Board of Architects, the New Jersey State Board of
27 Cosmetology and Hairstyling, the Board of Examiners of Electrical
28 Contractors, the New Jersey State Board of Dentistry, the State Board
29 of Mortuary Science of New Jersey, the State Board of Professional
30 Engineers and Land Surveyors, the State Board of Marriage and
31 Family Therapy Examiners, the State Board of Medical Examiners, the
32 New Jersey Board of Nursing, the New Jersey State Board of
33 Optometrists, the State Board of Examiners of Ophthalmic Dispensers
34 and Ophthalmic Technicians, the Board of Pharmacy, the State Board
35 of Professional Planners, the State Board of Psychological Examiners,
36 the State Board of Examiners of Master Plumbers, the New Jersey
37 Real Estate Commission, the State Board of Shorthand Reporting, the
38 State Board of Veterinary Medical Examiners, the Radiologic
39 Technology Board of Examiners, the Acupuncture Examining Board,
40 the State Board of Chiropractic Examiners, the State Board of
41 Respiratory Care, the State Real Estate Appraiser Board, the State
42 Board of Social Work Examiners, [the State Board of Public Movers
43 and Warehousemen, and] the State Board of Physical Therapy
44 Examiners, the Orthotics and Prosthetics Board of Examiners, the
45 New Jersey Cemetery Board, the State Board of Polysomnography and
46 any other entity hereafter created under Title 45 to license or

1 otherwise regulate a profession or occupation.

2 (cf: P.L.2003, c.18, s.18)

3

4 15. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read as
5 follows:

6 1. The provisions of this act shall apply to the following boards and
7 commissions: the New Jersey State Board of Accountancy, the New
8 Jersey State Board of Architects, the New Jersey State Board of
9 Cosmetology and Hairstyling, the Board of Examiners of Electrical
10 Contractors, the New Jersey State Board of Dentistry, the State Board
11 of Mortuary Science of New Jersey, the State Board of Professional
12 Engineers and Land Surveyors, the State Board of Marriage and
13 Family Therapy Examiners, the State Board of Medical Examiners, the
14 New Jersey Board of Nursing, the New Jersey State Board of
15 Optometrists, the State Board of Examiners of Ophthalmic Dispensers
16 and Ophthalmic Technicians, the Board of Pharmacy, the State Board
17 of Professional Planners, the State Board of Psychological Examiners,
18 the State Board of Examiners of Master Plumbers, the State Board of
19 Shorthand Reporting, the State Board of Veterinary Medical
20 Examiners, the Radiologic Technology Board of Examiners, the
21 Acupuncture Examining Board, the State Board of Chiropractic
22 Examiners, the State Board of Respiratory Care, the State Real Estate
23 Appraiser Board, the New Jersey Cemetery Board, the State Board
24 of Social Work Examiners, [and] the State Board of Physical Therapy
25 Examiners, the State Board of Polysomnography, the Orthotics and
26 Prosthetics Board of Examiners and any other entity hereafter created
27 under Title 45 to license or otherwise regulate a profession or
28 occupation.

29 (cf: P.L.2003, c.261, s.39)

30

31 16. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read as
32 follows:

33 2. The provisions of this act shall apply to the following boards and
34 all professions or occupations regulated by, through or with the advice
35 of those boards: the New Jersey State Board of Accountancy, the
36 New Jersey State Board of Architects, the New Jersey State Board of
37 Cosmetology and Hairstyling, the Board of Examiners of Electrical
38 Contractors, the New Jersey State Board of Dentistry, the State Board
39 of Mortuary Science of New Jersey, the State Board of Professional
40 Engineers and Land Surveyors, the State Board of Marriage and
41 Family Therapy Examiners, the State Board of Medical Examiners, the
42 New Jersey Board of Nursing, the New Jersey State Board of
43 Optometrists, the State Board of Examiners of Ophthalmic Dispensers
44 and Ophthalmic Technicians, the Board of Pharmacy, the State Board
45 of Professional Planners, the State Board of Psychological Examiners,
46 the State Board of Examiners of Master Plumbers, the State Board of

1 Shorthand Reporting, the State Board of Veterinary Medical
2 Examiners, [the Acupuncture Examining Board,] the State Board of
3 Chiropractic Examiners, the State Board of Respiratory Care, the
4 State Real Estate Appraiser Board, the State Board of Social Work
5 Examiners, the State Board of Physical Therapy Examiners, the State
6 Board of Polysomnography, the Professional Counselor Examiners
7 Committee, the New Jersey Cemetery Board, the Orthotics and
8 Prosthetics Board of Examiners, the Occupational Therapy Advisory
9 Council, the Electrologists Advisory Committee, the Acupuncture
10 Advisory Committee, the Alcohol and Drug Counselor Committee, the
11 Athletic Training Advisory Committee, the Certified Psychoanalysts
12 Advisory Committee, the Fire Alarm, Burglar Alarm, and Locksmith
13 Advisory Committee, the Home Inspection Advisory Committee, the
14 Interior Design Examination and Evaluation Committee, the Hearing
15 Aid Dispensers Examining Committee, the Landscape Architect
16 Examination and Evaluation Committee, the Massage, Bodywork and
17 Somatic Therapy Examining Committee, the Perfusionists Advisory
18 Committee, the Physician Assistant Advisory Committee, [and] the
19 Audiology and Speech-Language Pathology Advisory Committee and
20 any other entity hereafter created under Title 45 to license or
21 otherwise regulate a profession or occupation.

22 (cf: P.L.2003, c.18, s.20)

23

24 17. Section 1 of P.L.2002, c.104 (C.45:1-28) is amended to read
25 as follows:

26 1. As used in this act:

27 "Applicant" means an applicant for the licensure or other
28 authorization to engage in a health care profession.

29 "Board" means a professional and occupational licensing board
30 within the Division of Consumer Affairs in the Department of Law and
31 Public Safety.

32 "Director" means the Director of the Division of Consumer Affairs
33 in the Department of Law and Public Safety.

34 "Division" means the Division of Consumer Affairs in the
35 Department of Law and Public Safety.

36 "Health care professional" means a health care professional who is
37 licensed or otherwise authorized, pursuant to Title 45 or Title 52 of
38 the Revised Statutes, to practice a health care profession that is
39 regulated by one of the following boards or by the Director of the
40 Division of Consumer Affairs: the State Board of Medical Examiners,
41 the New Jersey Board of Nursing, the New Jersey State Board of
42 Dentistry, the New Jersey State Board of Optometrists, the Board of
43 Pharmacy of the State of New Jersey, the State Board of Chiropractic
44 Examiners, the Acupuncture Examining Board, the State Board of
45 Physical Therapy, the State Board of Respiratory Care, the Orthotics
46 and Prosthetics Board of Examiners, the State Board of Psychological

1 Examiners, the State Board of Social Work Examiners, the State
2 Board of Veterinary Medical Examiners, the State Board of Examiners
3 of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology
4 and Speech-Language Pathology Advisory Committee, the State
5 Board of Marriage and Family Therapy Examiners, the Occupational
6 Therapy Advisory Council [or], the Certified Psychoanalysts Advisory
7 Committee or the State Board of Polysomnography.

8 Health care professional shall not include a nurse aide or personal
9 care assistant who is required to undergo a criminal history record
10 background check pursuant to section 2 of P.L.1997, c.100 (C.26:2H-
11 83) or a homemaker-home health aide who is required to undergo a
12 criminal history record background check pursuant to section 7 of
13 P.L.1997, c.100 (C.45:11-24.3).

14 (cf: P.L.2002, c.104, s.1)

15

16 18. This act shall take effect immediately, except that section 9
17 shall take effect 360 days following the appointment and qualification
18 of the board members, and provided that the director and board may
19 take such anticipatory action as may be necessary to effectuate that
20 provision of the act.

21

22

23

STATEMENT

24

25 This bill provides for the licensure of practioners of
26 polysomnography and establishes the State Board of Polysomnography
27 in the Division of Consumer Affairs in the Department of Law and
28 Public Safety. The board shall consist of 11 members who are
29 residents of the State, six of whom shall be licensed polysomnographic
30 technologists who have been actively engaged in the practice of
31 polysomnography in this State for at least five years immediately
32 preceding their appointment, one of whom shall be a qualified medical
33 director, one of whom shall be a physician licensed in this State and
34 who is a Diplomate of the American Board of Sleep medicine, two of
35 whom shall be public members and one of whom shall be a State
36 executive department member.

37 The board shall: (1) establish criteria and standards for licensure;
38 (2) review the qualification of applicants for licensure; (3) insure
39 proper conduct and standards of practice; (4) issue and renew licenses;
40 (5) establish standards for continuing education; (6) suspend, revoke
41 or decline to renew licenses of polysomnographic technologists,
42 technicians and trainees pursuant to the provisions of P.L.1978, c.73
43 (C.45:1-14 eq seq.); (7) maintain a record of every polysomnographic
44 technologist, technician and trainee licensed in this State; (8)
45 promulgate rules and regulations to carry out the provisions of the bill,
46 except that the initial rules and regulations may be promulgated by the

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11

1 director; and (9) establish fees for applications for licensure,
2 examinations, initial licensure, renewals, late renewals, temporary
3 licenses, provisional licenses and for duplication of lost licenses,
4 pursuant to section 2 of P.L.1974, c.46 (C.45:1-3.2).

5 The bill also provides that no person shall be permitted to practice
6 or present himself as able to practice polysomnography unless that
7 person possess a valid license. The board shall only issue a license to
8 those who the board determines to be qualified and have completed
9 the board's requirements for education, training and experience. The
10 license shall be issued for two years and may be renewed for additional
11 two year periods.

12 Finally, the bill amends certain of the general provisions regulating
13 the several professions and occupations to include the new State
14 Board of Polysomnography.

ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 2661 and 3755**

STATE OF NEW JERSEY

DATED: MAY 2, 2005

The Assembly Health and Human Services Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 2661 and 3755.

This committee substitute, which is designated the "Polysomnography Practice Act," provides for the licensure of practitioners of polysomnography and establishes the State Board of Polysomnography in the Division of Consumer Affairs in the Department of Law and Public Safety.

The substitute provides specifically as follows:

- C The board is to consist of 11 members who are residents of the State, six of whom are licensed polysomnographic technologists who have been actively engaged in the practice of polysomnography in this State for at least five years immediately preceding their appointment, one of whom is a qualified medical director, one of whom is a physician licensed in this State who is a Diplomate of the American Board of Sleep Medicine, two of whom are public members and one of whom is a representative of a State executive department.
- C The board is directed to:
 - establish criteria and standards for licensure in accordance with national accreditation standards adopted by the Association of Polysomnographic Technologists;
 - review the qualification of applicants for licensure;
 - insure proper conduct and standards of practice;
 - issue and renew licenses;
 - establish standards for continuing education;
 - suspend, revoke or decline to renew licenses of polysomnographic technologists, technicians and trainees pursuant to the provisions of N.J.S.A.45:1-14 eq seq.;
 - maintain a record of every polysomnographic technologist, technician and trainee licensed in this State;
 - promulgate rules and regulations to carry out the provisions of the substitute, except that the initial rules and regulations may be promulgated by the Director of the Division of Consumer Affairs; and
 - establish fees for applications for licensure, examinations, initial

licensure, renewals, late renewals, temporary licenses, provisional licenses and for duplication of lost licenses, pursuant to N.J.S.A.45:1-3.2.

- C No person is permitted to practice or present himself as able to practice polysomnography unless that person possess a valid license. The board will only issue a license to those who the board determines to be qualified and have completed its requirements for education, training and experience. The license is to be issued for two years and may be renewed for additional two-year periods.
- C The substitute amends certain of the general statutory provisions regulating the various professions and occupations to include the State Board of Polysomnography created under the substitute.

FISCAL NOTE
[First Reprint]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 2661 and 3755
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: JULY 6, 2005

SUMMARY

Synopsis: "Polysomnography Practice Act."
Type of Impact: Expenditure Increase. Revenue Gain. General Fund.
Agencies Affected: Department of Law and Public Safety; Division of Consumer Affairs.

Executive Estimate

| Fiscal Impact | FY 2006 | FY 2007 | FY 2008 |
|----------------------|---|----------------|----------------|
| State Cost | \$46,000 | \$47,000 | \$119,000 |
| State Revenue | No revenue expected in the first two years. | | \$243,000 |

- ! The Office of Legislative Services (OLS) **concurs** with the Executive estimate; however, OLS notes that the Division of Consumer Affairs could provide regulation and request licensing fees prior to FY 2008.
- ! Establishes the "Polysomnography Practice Act."
- ! Creates a State Board of Polysomnography to establish criteria, standards and fees for licensure.
- ! Prevents anyone from practicing polysomnography in the State without proper licensure.

BILL DESCRIPTION

Assembly Committee Substitute for Assembly Bill Nos. 2661 and 3755 (1R) of 2004 known as the "Polysomnography Practice Act," provides for the licensure of practitioners of polysomnography and establishes the State Board of Polysomnography in the Division of Consumer Affairs in the Department of Law and Public Safety.

This bill provides that no person will be permitted to practice polysomnography unless that person possess a valid license. The board will only issue a license to those who the board determines to be qualified and have completed its requirements for education, training and

experience. The bill provides criteria and requirements for licensure. The license is to be issued for two years and may be renewed for additional two-year periods.

The bill allows the State Board of Polysomnography to establish licensure fees in order to cover regulation expenditures.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Division of Consumer Affairs in the Department of Law and Public Safety, estimates the cost of implementing the provisions of this bill at \$46,000 in the first year after enactment. This amount includes \$17,000 in salaries and benefits for an executive director and a principal typist; materials and supplies, at \$2,000; services other than personnel, specifically data processing at \$23,000; and equipment at \$4,000.

After adjustment for inflation and deduction of certain fixed costs, the division estimates the cost of this bill at \$47,000 in the second year.

Upon the third year the division estimates the cost of implementing the provisions of this bill at \$119,000. This amount includes an increase in salaries for a full time data entry machine operator, data processing and equipment maintenance.

The division estimates that \$243,00 in revenue will be generated through imposed licensing fees on technicians. The estimated licensing fees on the profession will contribute the necessary revenue for the State to provide regulation.

| Type of License | Estimated License Fee* | Expected Registrants | Estimated Revenue |
|--------------------------------|-------------------------------|-----------------------------|--------------------------|
| Temporary Technician | \$400 (1 Year) | 25 | \$10,000 (Annual) |
| Provisional Trainee | \$300 (1 Year) | 25 | \$8,000 (Annual) |
| Technologists | \$1500 (Biennial) | 150 | \$225,000 (Biennial) |
| Total Estimated Revenue | | | \$243,000 |

*These fees were provided as an estimate by the Division of Consumer Affairs.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Executive estimate; however, OLS notes that the Division of Consumer Affairs could provide regulation and request licensing fees prior to Fiscal Year 2008.

According to a spokesman from the American Academy of Sleep Medicine, there are 84 members of the Association of Polysomnographic Technologists and 150 members of the American Academy of Sleep Medicine registered in New Jersey. Additionally, there are 137 New Jersey residents who have passed the Registered Polysomnographic Technologist credentialing examination, which is the highest credential in the field of polysomnographic technology.

1R ACS for A2661

3

Section: *Law and Public Safety*

Analyst: *Kristin A. Brunner*
Associate Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 2661 and 3755**

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 9, 2005

The Assembly Appropriations Committee reports favorably Assembly Bill Nos. 2661 and 3755 (ACS), with committee amendments.

Assembly Bill Nos. 2661 and 3755 (ACS), as amended, is designated the "Polysomnography Practice Act," and provides for the licensure of practitioners of polysomnography and establishes the State Board of Polysomnography in the Division of Consumer Affairs in the Department of Law and Public Safety.

The bill provides specifically as follows:

- C The board is to consist of 11 members who are residents of the State, six of whom are licensed polysomnographic technologists who have been actively engaged in the practice of polysomnography in this State for at least five years immediately preceding their appointment, one of whom is a qualified medical director, one of whom is a physician licensed in this State who is a Diplomate of the American Board of Sleep Medicine or who is board certified in sleep medicine, two of whom are public members and one of whom is a member of a State executive department.

- C The board is directed to:

- establish criteria and standards for licensure in accordance with national accreditation standards adopted by the Association of Polysomnographic Technologists or the American Academy of Sleep Medicine or the Committee on Accreditation for Polysomnography;

- review the qualification of applicants for licensure;

- insure proper conduct and standards of practice;

- issue and renew licenses;

- establish standards for continuing education;

- suspend, revoke or decline to renew licenses of polysomnographic technologists, technicians and trainees;

- maintain a record of every polysomnographic technologist, technician and trainee licensed in this State;

- promulgate rules and regulations to carry out the provisions of the substitute, except that the initial rules and regulations may be

promulgated by the Director of the Division of Consumer Affairs; and
 -- establish fees for applications for licensure, examinations, initial licensure, and renewals.

- C No person is permitted to practice or present himself as able to practice polysomnography unless that person possess a valid license. The board will only issue a license to those who the board determines to be qualified and have completed its requirements for education, training and experience. The license is to be issued for two years and may be renewed for additional two-year periods.
- C The bill amends certain of the general statutory provisions regulating the various professions and occupations to include the State Board of Polysomnography established under the substitute.

FISCAL IMPACT:

The Division of Consumer Affairs in the Department of Law and Public Safety, estimates the cost of implementing the provisions of this bill at \$46,000 in the first year after enactment, \$47,000 in the second year and \$119,000 in the third year, a total of \$212,00 in costs for the three years.

The division estimates that \$243,00 in revenue will be generated through imposed licensing fees on trainees, technicians, and technologists in the third year. The estimated licensing fees on the profession will contribute the necessary revenue for the State to provide regulation.

COMMITTEE AMENDMENTS:

The amendments include the use of positive airway pressure in the definition of "polysomnography" and to eliminate non-invasive ventilatory assistance of spontaneously breathing patients from the definition. That definition is further amended to make it clear that polysomnography does not include a home-based unattended self-administered diagnostic test, provided that any test results shall only be read and analyzed by a licensed polysomnographic technologist or polysomnographic technician or a licensed physician.

Definitions of "supervision" and "direct supervision" are added in relation to the levels of supervision required for polysomnographic technicians and trainees.

Amendments stipulate that the standards for licensure must at least be commensurate with national accreditation standards adopted by the Association of Polysomnographic Technologists or the American Academy of Sleep Medicine or the Committee on Accreditation for Polysomnography, as appropriate.

SENATE, No. 2279

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JANUARY 31, 2005

Sponsored by:

Senator ROBERT W. SINGER

District 30 (Burlington, Mercer, Monmouth and Ocean)

Senator BARBARA BUONO

District 18 (Middlesex)

Co-Sponsored by:

Senator Vitale

SYNOPSIS

"Polysomnography Practice Act."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/1/2005)

1 AN ACT concerning the licensure of polysomnographers,
2 supplementing Title 45 of the Revised Statutes and amending
3 various parts of the statutory law.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. (New section) This act shall be known and may be cited as the
9 "Polysomnography Practice Act."

10

11 2. (New section) The Legislature finds and declares that the public
12 interest requires the regulation of the practice of polysomnographers
13 and the establishment of clear licensure standards for practitioners of
14 polysomnography; and that the health and welfare of the citizens of
15 this State will be protected by identifying to the public those
16 individuals who are qualified and legally authorized to practice
17 polysomnography.

18

19 3. (New section) As used in this act:

20 "Board" means the State Board of Polysomnography established
21 pursuant to section 4 of this act.

22 "Director" means the Director of the Division of Consumer Affairs
23 in the Department of Law and Public Safety.

24 "Licensed physician" means a physician licensed by the State Board
25 of Medical Examiners.

26 "Polysomnography" means the allied health specialty involving the
27 treatment, management, diagnostic testing, research, control,
28 education and care of patients with sleep and wake disorders under a
29 qualified medical director and includes but is not limited to the process
30 of analysis, monitoring and recording of physiologic data during sleep
31 and wakefulness to assess, diagnose and assist in the treatment and
32 research of disorders, syndromes and dysfunctions that either are sleep
33 related, manifest during sleep or disrupt normal sleep and wake cycles
34 and activities. Polysomnography shall also include the therapeutic and
35 diagnostic use of oxygen, non-invasive ventilatory assistance of
36 spontaneously breathing patients, cardiopulmonary resuscitation,
37 maintenance of nasal and oral airways that do not extend in the
38 trachea, transcription and implementation of the written or verbal
39 orders of a physician pertaining to the practice of polysomnography.
40 Polysomnography services shall be provided only when ordered by a
41 physician who has medical responsibility for the patient.

42 "Polysomnographic technician" means a person who holds a
43 temporary license issued by the board who practices polysomnography

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 under the supervision of a licensed polysomnographic technologist or
2 a licensed physician.

3 "Polysomnographic technologist" means a person licensed by the
4 board to practice polysomnography under the direction of a licensed
5 physician.

6 "Polysomnographic trainee" means a person who holds a
7 provisional license issued by the board and who performs
8 polysomnography under the direct supervision of a licensed
9 polysomnographic technologist or a licensed physician.

10 "Qualified medical director" means the medical director of any in-
11 patient or out-patient polysomnography service, department or home
12 care agency. The qualified medical director shall be a licensed
13 physician who has special interest and knowledge in the diagnosis and
14 treatment of sleep and wake disorders and shall be qualified by special
15 training and experience in the management of sleep and wake
16 disorders.

17

18 4. (New section) a. There is created within the Division of
19 Consumer Affairs in the Department of Law and Public Safety the
20 State Board of Polysomnography. The board shall consist of 11
21 members who are residents of the State, six of whom shall be licensed
22 polysomnographic technologists who have been actively engaged in
23 the practice of polysomnography in this State for at least five years
24 immediately preceding their appointment, one of whom shall be a
25 qualified medical director, one of whom shall be a physician licensed
26 in this State pursuant to chapter 9 of Title 45 of the Revised Statutes
27 and who is a Diplomate of the American Board of Sleep Medicine, two
28 of whom shall be public members and one of whom shall be a State
29 executive department member appointed pursuant to the provisions of
30 P.L.1972, c.60 (C.45:1-2.1 et seq.). At the time of their appointment
31 the six polysomnographic technologists initially appointed shall have
32 been actively working as polysomnographic technologists and shall
33 have been certified by the Board of Registered Polysomnographic
34 Technologists for at least five years, but need not be licensed in this
35 State.

36 b. The Governor shall appoint each member, other than the State
37 executive department member, with the advice and consent of the
38 Senate. The Governor shall appoint each member for a term of three
39 years, except that of the polysomnographic practitioner members first
40 appointed, two shall serve for terms of three years, two shall serve for
41 terms of two years and two shall serve for a term of one year. Each
42 member shall hold office until his successor has been appointed and
43 qualified. Any vacancy in the membership of the board shall be filled
44 for the unexpired term only in the manner provided for the original
45 appointment.

1 5. (New section) Members of the board shall be compensated and
2 reimbursed for expenses and provided with office and meeting facilities
3 pursuant to section 2 of P.L.1977, c.285 (C.45:1-2.5).

4
5 6. (New section) The board shall annually elect from among its
6 members a chairman and a vice-chairman. The board shall meet at
7 least four times per year and may hold additional meetings as
8 necessary to discharge its duties. The board shall organize itself
9 following the appointment of at least that number of members of the
10 board constituting a quorum of the entire board, provided that at least
11 a majority of the members appointed are polysomnographic
12 technologists.

13
14 7. (New section) The board shall:

15 a. Establish criteria and standards for licensure;

16 b. Review the qualification of applicants for licensure;

17 c. Insure proper conduct and standards of practice;

18 d. Issue and renew licenses pursuant to this act;

19 e. Establish standards for continuing education;

20 f. Suspend, revoke or decline to renew licenses of
21 polysomnographic technologists, technicians and trainees pursuant to
22 the provisions of P.L.1978, c.73 (C.45:1-14 eq seq.);

23 g. Maintain a record of every polysomnographic technologist,
24 technician and trainee licensed in this State;

25 h. Promulgate rules and regulations pursuant to the
26 "Administrative Procedure Act;" P.L.1968, c.410 (C.52:14B-1 et seq.)
27 to carry out the provisions of this act, except that the initial rules and
28 regulations may be promulgated by the director; and

29 i. Establish fees for applications for licensure, examinations, initial
30 licensure, renewals, late renewals, temporary licenses, provisional
31 licenses and for duplication of lost licenses, pursuant to section 2 of
32 P.L.1974, c.46 (C.45:1-3.2).

33
34 8. (New section) The Executive Director of the board shall be
35 appointed by the director and shall serve at the director's pleasure.
36 The salary of the Executive Director shall be determined by the
37 director within the limits of available funds. The director shall be
38 empowered within the limits of available funds to hire any assistants
39 as are necessary to administer this act.

40
41 9. (New section) a. No person shall practice or present himself as
42 able to practice polysomnography in this State unless the person
43 possesses a valid license to practice polysomnography in accordance
44 with the provisions of this act.

45 b. Nothing in this act shall be construed to:

46 (1) prohibit a person enrolled in a bona fide polysomnography

1 training program from performing those duties essential for completion
2 of a trainee's clinical service, provided the duties are performed under
3 the supervision and direction of a physician or licensed
4 polysomnographic technologist; or

5 (2) limit, preclude or otherwise interfere with the practices of other
6 persons and health care providers licensed by appropriate agencies of
7 this State, provided that those duties are consistent with the accepted
8 standards of the person's profession and that the person does not
9 present himself or herself as a licensed polysomnographic technologist,
10 licensed polysomnographic technician or licensed polysomnographic
11 trainee which otherwise would require licensure by the board.

12
13 10. (New section) a. The board shall issue a license as a
14 polysomnographic technologist to any applicant who the board
15 determines to be qualified to perform the duties of a polysomnographic
16 technologist. In making a determination, the board shall review
17 evidence that the applicant has successfully completed the board's
18 requirements for education; training; and experience, with documented
19 proficiencies, determined using standards established by the board; and
20 has successfully completed the certification examination administered
21 by the Board of Registered Polysomnographic Technologists or its
22 successor, or any other examination testing polysomnography
23 approved by the board. The fee prescribed by the board shall
24 accompany the application.

25 b. The board shall issue a temporary license as a polysomnographic
26 technician to any applicant who the board determines to be qualified
27 to perform the duties of a polysomnographic technician. In making a
28 determination, the board shall review evidence that the applicant has
29 successfully completed the board's requirements for education;
30 training; and experience, with documented proficiencies, determined
31 using standards established by the board. The fee prescribed by the
32 board shall accompany the application.

33 c. The board shall issue a provisional license as a
34 polysomnographic trainee to any applicant who the board determines
35 to be qualified to perform the duties of a polysomnographic trainee.
36 In making a determination, the board shall review evidence that the
37 applicant has successfully completed the board's requirements for
38 education; training; and experience with documented proficiencies,
39 determined using standards established by the board; and
40 documentation that the applicant's performance of polysomnography
41 will be directly supervised by a licensed polysomnographic
42 technologist or a licensed physician. The fee prescribed by the board
43 shall accompany the application.

44
45 11. (New section) a. A license as a polysomnographic
46 technologist shall be issued for a period of two years, and may be

1 renewed for additional two year periods upon submission by the holder
2 of a renewal application on a form prescribed by the board, completion
3 by the holder of any requirements for renewal established by the board,
4 and payment of the renewal fee prescribed by the board.

5 b. A temporary license as a polysomnographic technician shall be
6 issued for a period of one year and may be renewed for an additional
7 one year period to permit a polysomnographic technician to take the
8 examination required for licensure as a polysomnographic technologist
9 a maximum of three times. Renewal of a temporary license shall be
10 issued upon submission by the holder of a renewal application on a
11 form prescribed by the board, completion by the holder of any
12 requirements for renewal established by the board, and payment of the
13 renewal fee prescribed by the board.

14 c. A provisional license as a polysomnographic trainee shall be
15 issued for a period of not more than one year.

16 d. A temporary or provisional license may be put on inactive status
17 at the discretion of the board upon the written request of the holder
18 for reasons of hardship, such as health or other good cause.

19 e. If a renewal fee is not paid by the expiration date, the license
20 shall automatically expire, but may be renewed within two years of its
21 expiration date on payment to the board of a sum determined by it for
22 each year or part thereof during which the license was expired and an
23 additional restoration fee.

24
25 12. (New section) Upon receipt of a fee and a written application
26 on forms provided by it, the board shall issue a license without
27 examination to a polysomnographic technologist who holds a valid
28 license issued by another state or possession of the United States or
29 the District of Columbia that has education and experience
30 requirements substantially equivalent to the requirements of this act,
31 so long as the applicant has successfully completed the Board of
32 Registered Polysomnographic Technologist examination required by
33 section 10 of this act or any other examination testing
34 polysomnography approved by the board.

35
36 13. (New section) a. The board shall issue a license as a
37 polysomnographic technologist to an applicant, who at the time of the
38 effective date of this act, has passed the certification examination
39 administered by the Board of Registered Polysomnographic
40 Technologists and holds a valid credential.

41 b. (1) The board shall issue a temporary license to continue
42 practice as a polysomnographic technician for a period of two years
43 from the effective date of section 9 of this act to any applicant who has
44 not passed the certification examination required by subsection a. at
45 the time of the effective date of section 9 of this act, provided that the
46 applicant, who through written evidence, verified by oath,

1 demonstrates that he:

2 (a) is presently functioning in the capacity of a polysomnographic
3 technician as defined by this act and has successfully completed a
4 polysomnographic program of not less than one year associated with
5 a state licensed program or a program accredited by the Commission
6 on Accreditation of Allied Health Education Programs or other
7 nationally recognized accrediting organization; or

8 (b) has successfully completed a minimum of 720 hours of
9 experience as a polysomnographic trainee or has a minimum of one
10 year of experience as a polysomnographic technician with documented
11 proficiency in polysomnography as determined using standardized
12 Association of Polysomnographic Technologists National
13 Competencies.

14 (2) An applicant who receives a temporary license pursuant to this
15 subsection shall be required to pass the licensure examination required
16 by the board and attain the RPSGT credential during his temporary
17 licensure period in order to be issued a license as a polysomnographic
18 technologist.

19 c. An applicant for licensure under this section shall apply within
20 six months of the effective date of section 9. of the act.

21

22 14. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read as
23 follows:

24 1. The provisions of this act shall apply to the following boards and
25 commissions: the New Jersey State Board of Accountancy, the New
26 Jersey State Board of Architects, the New Jersey State Board of
27 Cosmetology and Hairstyling, the Board of Examiners of Electrical
28 Contractors, the New Jersey State Board of Dentistry, the State Board
29 of Mortuary Science of New Jersey, the State Board of Professional
30 Engineers and Land Surveyors, the State Board of Marriage and
31 Family Therapy Examiners, the State Board of Medical Examiners, the
32 New Jersey Board of Nursing, the New Jersey State Board of
33 Optometrists, the State Board of Examiners of Ophthalmic Dispensers
34 and Ophthalmic Technicians, the Board of Pharmacy, the State Board
35 of Professional Planners, the State Board of Psychological Examiners,
36 the State Board of Examiners of Master Plumbers, the New Jersey
37 Real Estate Commission, the State Board of Shorthand Reporting, the
38 State Board of Veterinary Medical Examiners, the Radiologic
39 Technology Board of Examiners, the Acupuncture Examining Board,
40 the State Board of Chiropractic Examiners, the State Board of
41 Respiratory Care, the State Real Estate Appraiser Board, the State
42 Board of Social Work Examiners, [the State Board of Public Movers
43 and Warehousemen, and] the State Board of Physical Therapy
44 Examiners, the Orthotics and Prosthetics Board of Examiners, the
45 New Jersey Cemetery Board, the State Board of Polysomnography and
46 any other entity hereafter created under Title 45 to license or

1 otherwise regulate a profession or occupation.

2 (cf: P.L.2003, c.18, s.18)

3

4 15. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read as
5 follows:

6 1. The provisions of this act shall apply to the following boards and
7 commissions: the New Jersey State Board of Accountancy, the New
8 Jersey State Board of Architects, the New Jersey State Board of
9 Cosmetology and Hairstyling, the Board of Examiners of Electrical
10 Contractors, the New Jersey State Board of Dentistry, the State Board
11 of Mortuary Science of New Jersey, the State Board of Professional
12 Engineers and Land Surveyors, the State Board of Marriage and
13 Family Therapy Examiners, the State Board of Medical Examiners, the
14 New Jersey Board of Nursing, the New Jersey State Board of
15 Optometrists, the State Board of Examiners of Ophthalmic Dispensers
16 and Ophthalmic Technicians, the Board of Pharmacy, the State Board
17 of Professional Planners, the State Board of Psychological Examiners,
18 the State Board of Examiners of Master Plumbers, the State Board of
19 Shorthand Reporting, the State Board of Veterinary Medical
20 Examiners, the Radiologic Technology Board of Examiners, the
21 Acupuncture Examining Board, the State Board of Chiropractic
22 Examiners, the State Board of Respiratory Care, the State Real Estate
23 Appraiser Board, the New Jersey Cemetery Board, the State Board of
24 Social Work Examiners, [and] the State Board of Physical Therapy
25 Examiners, the State Board of Polysomnography, the Orthotics and
26 Prosthetics Board of Examiners and any other entity hereafter created
27 under Title 45 to license or otherwise regulate a profession or
28 occupation.

29 (cf: P.L.2003, c.261, s.39)

30

31 16. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read as
32 follows:

33 2. The provisions of this act shall apply to the following boards and
34 all professions or occupations regulated by, through or with the advice
35 of those boards: the New Jersey State Board of Accountancy, the
36 New Jersey State Board of Architects, the New Jersey State Board of
37 Cosmetology and Hairstyling, the Board of Examiners of Electrical
38 Contractors, the New Jersey State Board of Dentistry, the State Board
39 of Mortuary Science of New Jersey, the State Board of Professional
40 Engineers and Land Surveyors, the State Board of Marriage and
41 Family Therapy Examiners, the State Board of Medical Examiners, the
42 New Jersey Board of Nursing, the New Jersey State Board of
43 Optometrists, the State Board of Examiners of Ophthalmic Dispensers
44 and Ophthalmic Technicians, the Board of Pharmacy, the State Board
45 of Professional Planners, the State Board of Psychological Examiners,
46 the State Board of Examiners of Master Plumbers, the State Board of

1 Shorthand Reporting, the State Board of Veterinary Medical
2 Examiners, [the Acupuncture Examining Board,] the State Board of
3 Chiropractic Examiners, the State Board of Respiratory Care, the
4 State Real Estate Appraiser Board, the State Board of Social Work
5 Examiners, the State Board of Physical Therapy Examiners, the State
6 Board of Polysomnography, the Professional Counselor Examiners
7 Committee, the New Jersey Cemetery Board, the Orthotics and
8 Prosthetics Board of Examiners, the Occupational Therapy Advisory
9 Council, the Electrologists Advisory Committee, the Acupuncture
10 Advisory Committee, the Alcohol and Drug Counselor Committee, the
11 Athletic Training Advisory Committee, the Certified Psychoanalysts
12 Advisory Committee, the Fire Alarm, Burglar Alarm, and Locksmith
13 Advisory Committee, the Home Inspection Advisory Committee, the
14 Interior Design Examination and Evaluation Committee, the Hearing
15 Aid Dispensers Examining Committee, the Landscape Architect
16 Examination and Evaluation Committee, the Massage, Bodywork and
17 Somatic Therapy Examining Committee, the Perfusionists Advisory
18 Committee, the Physician Assistant Advisory Committee, [and] the
19 Audiology and Speech-Language Pathology Advisory Committee and
20 any other entity hereafter created under Title 45 to license or
21 otherwise regulate a profession or occupation.

22 (cf: P.L.2003, c.18, s.20)

23

24 17. Section 1 of P.L.2002, c.104 (C.45:1-28) is amended to read
25 as follows:

26 1. As used in this act:

27 "Applicant" means an applicant for the licensure or other
28 authorization to engage in a health care profession.

29 "Board" means a professional and occupational licensing board
30 within the Division of Consumer Affairs in the Department of Law and
31 Public Safety.

32 "Director" means the Director of the Division of Consumer Affairs
33 in the Department of Law and Public Safety.

34 "Division" means the Division of Consumer Affairs in the
35 Department of Law and Public Safety.

36 "Health care professional" means a health care professional who is
37 licensed or otherwise authorized, pursuant to Title 45 or Title 52 of
38 the Revised Statutes, to practice a health care profession that is
39 regulated by one of the following boards or by the Director of the
40 Division of Consumer Affairs: the State Board of Medical Examiners,
41 the New Jersey Board of Nursing, the New Jersey State Board of
42 Dentistry, the New Jersey State Board of Optometrists, the Board of
43 Pharmacy of the State of New Jersey, the State Board of Chiropractic
44 Examiners, the Acupuncture Examining Board, the State Board of
45 Physical Therapy, the State Board of Respiratory Care, the Orthotics
46 and Prosthetics Board of Examiners, the State Board of Psychological

1 Examiners, the State Board of Social Work Examiners, the State
2 Board of Veterinary Medical Examiners, the State Board of Examiners
3 of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology
4 and Speech-Language Pathology Advisory Committee, the State
5 Board of Marriage and Family Therapy Examiners, the Occupational
6 Therapy Advisory Council [or], the Certified Psychoanalysts Advisory
7 Committee or the State Board of Polysomnography.

8 Health care professional shall not include a nurse aide or personal
9 care assistant who is required to undergo a criminal history record
10 background check pursuant to section 2 of P.L.1997, c.100 (C.26:2H-
11 83) or a homemaker-home health aide who is required to undergo a
12 criminal history record background check pursuant to section 7 of
13 P.L.1997, c.100 (C.45:11-24.3).

14 (cf: P.L.2002, c.104, s.1)

15

16 18. This act shall take effect immediately, except that section 9
17 shall take effect 360 days following the appointment and qualification
18 of the board members, and provided that the director and board may
19 take such anticipatory action as may be necessary to effectuate that
20 provision of the act.

21

22

23

STATEMENT

24

25 This bill provides for the licensure of practioners of
26 polysomnography and establishes the State Board of Polysomnography
27 in the Division of Consumer Affairs in the Department of Law and
28 Public Safety. The board shall consist of 11 members who are
29 residents of the State, six of whom shall be licensed polysomnographic
30 technologists who have been actively engaged in the practice of
31 polysomnography in this State for at least five years immediately
32 preceding their appointment, one of whom shall be a qualified medical
33 director, one of whom shall be a physician licensed in this State and
34 who is a Diplomate of the American Board of Sleep medicine, two of
35 whom shall be public members and one of whom shall be a State
36 executive department member.

37 The board shall: (1) establish criteria and standards for licensure;
38 (2) review the qualification of applicants for licensure; (3) insure
39 proper conduct and standards of practice; (4) issue and renew licenses;
40 (5) establish standards for continuing education; (6) suspend, revoke
41 or decline to renew licenses of polysomnographic technologists,
42 technicians and trainees pursuant to the provisions of P.L.1978, c.73
43 (C.45:1-14 eq seq.); (7) maintain a record of every polysomnographic
44 technologist, technician and trainee licensed in this State; (8)
45 promulgate rules and regulations to carry out the provisions of the bill,
46 except that the initial rules and regulations may be promulgated by the

1 director; and (9) establish fees for applications for licensure,
2 examinations, initial licensure, renewals, late renewals, temporary
3 licenses, provisional licenses and for duplication of lost licenses,
4 pursuant to section 2 of P.L.1974, c.46 (C.45:1-3.2).

5 The bill also provides that no person shall be permitted to practice
6 or present himself as able to practice polysomnography unless that
7 person possess a valid license. The board shall only issue a license to
8 those who the board determines to be qualified and have completed
9 the board's requirements for education, training and experience. The
10 license shall be issued for two years and may be renewed for additional
11 two year periods.

12 Finally, the bill amends certain of the general provisions regulating
13 the several professions and occupations to include the new State
14 Board of Polysomnography.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2279

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 26, 2005

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 2279.

As amended, this bill provides for the licensure of practitioners of polysomnography and establishes the State Board of Polysomnography in the Division of Consumer Affairs in the Department of Law and Public Safety. The board shall consist of 11 members who are residents of the State, six of whom shall be licensed polysomnographic technologists who have been actively engaged in the practice of polysomnography in this State for at least five years immediately preceding their appointment, one of whom shall be a qualified medical director, one of whom shall be a physician licensed in this State and who is a Diplomate of the American Board of Sleep Medicine or is board certified in sleep medicine, two of whom shall be public members and one of whom shall be a State executive department member.

The board shall establish criteria and standards for licensure at least commensurate with national accreditation standards adopted by the Association of Polysomnographic Technologists or the American Academy of Sleep Medicine or the Committee on Accreditation for Polysomnography. The board shall also: review the qualification of applicants for licensure; insure proper conduct and standards of practice; issue and renew licenses; establish standards for continuing education; suspend, revoke or decline to renew licenses of polysomnographic technologists, technicians and trainees; maintain a record of every polysomnographic technologist, technician and trainee licensed in this State; promulgate rules and regulations, except that the initial rules and regulations may be promulgated by the director; and establish fees for applications for licensure, examinations and renewals.

The bill also provides that no person shall be permitted to practice or present himself as able to practice polysomnography unless that person possesses a valid license. The board shall only issue a license to those who the board determines to be qualified and have completed the board's requirements for education, training and experience. The

license shall be issued for two years and may be renewed for additional two year periods.

Finally, the bill amends certain of the general provisions regulating the several professions and occupations to include the new State Board of Polysomnography.

The committee amended the bill to include the use of positive airway pressure in the definition of "polysomnography" and to eliminate non-invasive ventilatory assistance of spontaneously breathing patients from the definition. That definition was further amended to make it clear that polysomnography does not include a home-based unattended self-administered diagnostic test, provided that any test results shall only be read and analyzed by a licensed polysomnographic technologist or polysomnographic technician or a licensed physician.

Definitions of "supervision" and "direct supervision" were added as well, relative to the levels of supervision required for polysomnographic technicians and trainees.

Other amendments stipulate that the standards for licensure must at least be commensurate with national accreditation standards adopted by the Association of Polysomnographic Technologists or the American Academy of Sleep Medicine or the Committee on Accreditation for Polysomnography, as appropriate.

FISCAL NOTE
[First Reprint]
SENATE, No. 2279
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: JULY 19, 2005

SUMMARY

Synopsis: "Polysomnography Practice Act."
Type of Impact: Expenditure Increase. Revenue Gain. General Fund.
Agencies Affected: Department of Law and Public Safety; Division of Consumer Affairs.

Executive Estimate

| Fiscal Impact | FY 2006 | FY 2007 | FY 2008 |
|----------------------|---|----------------|----------------|
| State Cost | \$46,000 | \$47,000 | \$119,000 |
| State Revenue | No revenue expected in the first two years. | | \$243,000 |

- ! The Office of Legislative Services **concurs** with the Executive estimate; however, Office of Legislative Services notes that the Division of Consumer Affairs could provide regulation and request licensing fees prior to FY 2008.
- ! Establishes the "Polysomnography Practice Act."
- ! Creates a State Board of Polysomnography to establishes criteria, standards and fees for licensure.
- ! Prevents anyone from practicing polysomnography in the State without proper licensure.

BILL DESCRIPTION

Senate Bill No. 2279 (1R) of 2005 known as the "Polysomnography Practice Act," provides for the licensure of practitioners of polysomnography and establishes the State Board of Polysomnography in the Division of Consumer Affairs in the Department of Law and Public Safety.

This bill provides that no person will be permitted to practice polysomnography unless that person possess a valid license. The board will only issue a license to those who the board determines to be qualified and have completed its requirements for education, training and

experience. The bill provides criteria and requirements for licensure. The license is to be issued for two years and may be renewed for additional two-year periods.

The bill allows the State Board of Polysomnography to establish licensure fees in order to cover regulation expenditures.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Division of Consumer Affairs in the Department of Law and Public Safety, estimates the cost of implementing the provisions of this bill at \$46,000 in the first year after enactment. This amount includes \$17,000 in salaries and benefits for an executive director and a principal typist; materials and supplies, at \$2,000; services other than personnel, specifically data processing at \$23,000; and equipment at \$4,000.

After adjustment for inflation and deduction of certain fixed costs, the division estimates the cost of this bill at \$47,000 in the second year.

Upon the third year the division estimates the cost of implementing the provisions of this bill at \$119,000. This amount includes an increase in salaries for a full time data entry machine operator, data processing and equipment maintenance.

The division estimates that \$243,00 in revenue will be generated through imposed licensing fees on technicians. The estimated licensing fees on the profession will contribute the necessary revenue for the State to provide regulation.

| Type of License | Estimated License Fee* | Expected Registrants | Estimated Revenue |
|--------------------------------|-------------------------------|-----------------------------|--------------------------|
| Temporary Technician | \$400 (1 Year) | 25 | \$10,000 (Annual) |
| Provisional Trainee | \$300 (1 Year) | 25 | \$8,000 (Annual) |
| Technologists | \$1500 (Biennial) | 150 | \$225,000 (Biennial) |
| Total Estimated Revenue | | | \$243,000 |

*These fees were provided as an estimate by the Division of Consumer Affairs.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate; however, Office of Legislative Services notes that the Division of Consumer Affairs could provide regulation and request licensing fees prior to Fiscal Year 2008.

According to a spokesman from the American Academy of Sleep Medicine, there are 84 members of the Association of Polysomnographic Technologists and 150 members of the American Academy of Sleep Medicine registered in New Jersey. Additionally, there are 137 New Jersey residents who have passed the Registered Polysomnographic Technologist credentialing examination, which is the highest credential in the field of polysomnographic technology.

Section: *Law and Public Safety*

Analyst: *Kristin A. Brunner*
Associate Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.