

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 819\*  
Committee Substitute Favorable 5/28/09  
Committee Substitute #2 Favorable 6/3/09

Short Title: Polysomnography Practice Act.

(Public)

Sponsors:

Referred to:

March 30, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH THE POLYSOMNOGRAPHY PRACTICE ACT.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new  
5 Article to read:

6 "Article 39A.

7 "Polysomnography Practice Act.

8 **"§ 90-677.1. Definitions.**

9 The following definitions apply in this Article:

- 10 (1) Board. – The Board of Registered Polysomnographic Technologists (BRPT),  
11 a member of the National Organization of Certification Associations and  
12 accredited by the National Commission for Certifying Agencies (NCCA),  
13 the accreditation body of the National Organization for Competency  
14 Assurance (NOCA).
- 15 (2) Direct supervision. – An act whereby a registered polysomnographic  
16 technologist who is providing supervision is present in the area where the  
17 polysomnographic procedure is being performed and immediately available  
18 to furnish assistance and direction throughout the performance of the  
19 procedure.
- 20 (3) General supervision. – The authority and responsibility to direct the  
21 performance of activities as established by policies and procedures for safe  
22 and appropriate completion of polysomnography services whereby the  
23 physical presence of a licensed physician is not required during the  
24 performance of the polysomnographic procedure, but the licensed physician  
25 must be available for assistance, if needed.
- 26 (4) Licensed physician. – A physician licensed to practice medicine under  
27 Article 1 of Chapter 90 of the General Statutes.
- 28 (5) Polysomnography. – The allied health specialty involving the process of  
29 attended and unattended monitoring, analysis, and recording of physiological  
30 data during sleep and wakefulness to assist in the assessment of sleep and  
31 wake disorders and other sleep disorders, syndromes, and dysfunctions that  
32 are sleep-related, manifest during sleep, or disrupt normal sleep and wake  
33 cycles and activities.
- 34 (6) Registered polysomnographic technologist. – A person who is credentialed  
35 by the Board and entitled to use 'Registered Polysomnographic Technologist'  
36 (RPSGT) as the person's credential.



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1           (7)    Secretary. – The Secretary of State of North Carolina.

2           (8)    Student. – A person who is enrolled in a polysomnography educational  
3           program approved by the Board as an acceptable pathway to meet eligibility  
4           requirements for credentialing.

5    **"§ 90-677.2. Practice of polysomnography.**

6           (a)    The 'practice of polysomnography' means the performance of any of the following  
7    tasks:

8           (1)    Monitoring and recording physiological data during the evaluation of  
9           sleep-related disorders, including sleep-related respiratory disturbances, by  
10          applying the following techniques, equipment, or procedures:

11          a.     Positive airway pressure (PAP) devices, such as continuous positive  
12          airway pressure (CPAP), and bilevel and other approved devices,  
13          providing forms of pressure support used to treat sleep disordered  
14          breathing on patients using a mask or oral appliance; provided, the  
15          mask or oral appliance does not attach to an artificial airway or  
16          extend into the trachea.

17          b.     Supplemental low flow oxygen therapy, up to eight liters per minute,  
18          utilizing nasal cannula or administered with continuous or bilevel  
19          positive airway pressure during a polysomnogram.

20          c.     Capnography during a polysomnogram.

21          d.     Cardiopulmonary resuscitation.

22          e.     Pulse oximetry.

23          f.     Gastroesophageal pH monitoring.

24          g.     Esophageal pressure monitoring.

25          h.     Sleep staging, including surface electroencephalography, surface  
26          electrooculagraphy, and surface submental or masseter  
27          electromyography.

28          i.     Surface electromyography.

29          j.     Electrocardiography.

30          k.     Respiratory effort monitoring, including thoracic and abdominal  
31          movement.

32          l.     Plethysmography blood flow monitoring.

33          m.     Snore monitoring.

34          n.     Audio and video monitoring.

35          o.     Body movement.

36          p.     Nocturnal penile tumescence monitoring.

37          q.     Nasal and oral airflow monitoring.

38          r.     Body temperature monitoring.

39          s.     Actigraphy.

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

44          (3)    Analyzing and scoring data collected during the monitoring described in  
45          subdivisions (1) and (2) of this subsection for the purpose of assisting a  
46          licensed physician in the diagnosis and treatment of sleep and wake  
47          disorders.

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

50          (5)    Educating a patient regarding polysomnography and sleep disorders.

1       **(b)**    The practice of polysomnography shall be performed under the general supervision  
2 of a licensed physician.

3       **(c)**    The practice of polysomnography shall take place in a hospital, a stand-alone sleep  
4 laboratory or sleep center, or a patient's home. However, the scoring of data and education of  
5 patients may take place in settings other than a hospital, stand-alone sleep laboratory or sleep  
6 center, or patient's home.

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

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

12       **(b)**    Complaints and investigations of violations of this Article shall be directed to and  
13 conducted by the Board.

14       **(c)**    A violation of subsection (a) of this section is a Class 1 misdemeanor. The court  
15 may issue injunctions or restraining orders to prevent further violations under this Article.

16 **"§ 90-677.4. Exemptions.**

17       The provisions of this Article shall not apply to:

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

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

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

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

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

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

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

42               **c.**    The student adheres to post-training examination guidelines  
43 established by the Board.

44 **"§ 90-677.5. Listing by Secretary.**

45       **(a)**    Before engaging in the practice of polysomnography pursuant to this Article, each  
46 registered polysomnographic technologist shall remit to the Secretary a fee of fifty dollars  
47 (\$50.00) and file with the Secretary the following:

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

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

1           (3)   The date the registered polysomnographic technologist was credentialed by  
2           the Board.

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

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

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

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

27           **SECTION 3.** This act becomes effective October 1, 2009.